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Current Topics.

Peace.

THE momentous announcement made from Munich last week that agreement had been reached between the PRIME MINISTER, Herr HITLER, M. DALADIER and Signor MUSSOLINI concerning the method of transferring Sudeten territory cannot be allowed to pass unnoticed in these columns. The settlement of the problem confronting the conference was bound up with an issue of far greater concern—the avoidance of a European conflagration—and the gratitude of the peoples of the nations represented will go out to the members of the conference in bringing to bear upon the wider sphere of international relationships those forces of reason upon which the law in their own countries is based. Of the reality of that gratitude, the reception accorded to the participants in their respective countries leaves no room for doubt. For our part, we desire to record our deep appreciation of the courageous part played by Mr. CHAMBERLAIN, at whose suggestion the conference was called by Herr HITLER. The happy issue of its deliberations should be the prelude to a better understanding between the nations, enabling the peoples of Europe to pursue their daily avocations in quietude and security.

Reopening of the Courts.

THE late COMTE DE FRANQUEVILLE, who was a member of the French Bar, but took an immense interest in our English system of judicature, an interest accentuated on his marriage to a daughter of Lord Chancellor SELBORNE, wrote two substantial volumes, published in 1893, under the title "*Le Systeme Judiciare de la Grande Bretagne*," in which he noted and commented with great shrewdness on the manner in which our legal machinery works. Being familiar with the fact that in Paris the work of the legal year is prefaced by the Red Mass, he expressed his surprise that the commencement of the legal year with us was marked by no special ceremony. As he said, "*les juges revêtent cependant leur costume de cérémonie et traversent, en cortège, le grand hall central, après quoi, ils vont siéger dans leurs chambres respectives, sans qu'il gy ait un service religieux ou une audience solennelle accompagnée de discours de rentrée.*" Whether this had any effect in drawing the attention of the English Bar to the absence of any religious ceremony to mark the commencement of the legal year we do not know, but it is noticeable that in 1894 a service for Roman Catholic members of the bar was held, and that three years later the bench and bar attended for the first time the service, since then an annual event, in Westminster Abbey. At one time it was thought that such a service would more fittingly have been held in one or other of the chapels of the Inns of Court, or in St. Paul's Cathedral, or in what has been called the parish church of the Law Courts, St. Clement Danes, where Dr. JOHNSON habitually worshipped, but Westminster Abbey, with its sacred memories stretching back through many centuries, and with its close proximity to the site of the old courts, was considered the most suitable in which the service could be held.

Michaelmas Law Sittings.

THE lists for the coming term, which begins on Wednesday, show an increase, compared with the corresponding term last year, in the number of matters set down for hearing in the Chancery Division and in the number of actions awaiting trial in the King's Bench Division, but there is a decrease in the number of appeals both to the Court of Appeal and to the Divisional Court. This term there are 208 appeals to the Court of Appeal, compared with 268 for Michaelmas Term, 1937. The 200 final appeals comprise 24 from the Chancery Division, 126 from the King's Bench Division, eight from the Probate and Divorce Division, three from the Admiralty Division, one from the County Palatine Court of Lancaster, and 38 from the county courts. The figure for the Chancery Division includes seven appeals in bankruptcy, that for the King's Bench Division 18 from the Revenue Paper, and that for the county courts 13 in workmen's compensation cases. The total of appeals to the Divisional Court is 95, compared with 112 last year. There are 47 appeals in the Crown Paper, 13 in the Civil Paper, 17 in the Revenue Paper, and 13 in the Special Paper. The last figure shows an increase of six compared with that for 1937, while there has been a decrease of 16 in the number of appeals in the Crown Paper, and of one each in the Civil Paper and the Revenue Paper. The Divisional Court lists for the coming term also includes five appeals under the Housing Acts, 1925 to 1935. The total for the Chancery Division is 190, or 39 more than last year. The 28 actions in Witness List, Part I, will come to be dealt with by LUXMOORE and BENNETT, JJ., the 47 actions in Witness List, Part II, by CROSSMAN and MORTON, JJ. The Adjourned Summonses and Non-Witness List, comprising 75 matters, will come before FARWELL and SIMONDS, JJ. There are in addition a number of remaining causes or matters which need not be further particularised. Companies matters, which number 117, will be dealt with

by BENNETT, J. The total for the King's Bench Division excluding appeals to the Divisional Court is 1,440. The figure for the corresponding term last year was 1,042. There are 194 special jury and 232 common jury actions. Non-jury actions in the Ordinary List total 99, and there are 212 Long non-jury actions and 621 Short non-jury actions. With the 36 cases in the Commercial List (an increase of seven) and the 46 actions set down for trial under Order XIV, the total already indicated is completed. Further particulars not yet available will be given in due course.

The Rent Restrictions Act, 1938.

IN the course of an informative paper on the Increase of Rent and Mortgage Interest (Restrictions) Act, 1938, read at the Provincial Meeting of The Law Society on September 28th, Mr. FREDERICK G. JACKSON recalled that when reading a paper before the Society's Provincial Meeting at Oxford, five years ago, he expressed a doubt whether the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, would cease to operate at midsummer of the present year despite the emphatic way in which the duration of the Act was stated (the words are: "shall continue in force until the twenty-fourth day of June, 1938, and no longer"). Encouraged, perhaps, by the accuracy of his former view, the speaker, noting that the present Act is expressed to remain in force until Midsummer 1942, made the observation that only a very sanguine—one might almost say credulous—person would suppose that, twenty-four years after the conclusion of the conflict which gave rise to emergency legislation, this relic of it would be relegated to limbo. He stated that the present Act must be regarded, to some extent, as a retrograde measure; for, he said, the weighting of the scales of justice against property owners—possibly warrantable during the War and the disturbed period which followed—so far from being relaxed, was in some respects enhanced, and the date when the law of landlord and tenant should be once again on its ordinary footing had receded still further. Mr. JACKSON dealt with the various provisions of the new Act, paying particular attention to the way in which they affect landlords. It is impossible to make specific reference here to the various points which were brought out in the course of this treatment and readers are referred to the report of the paper on p. 813 of the present issue. A point of some general importance may, perhaps, be shortly noted in conclusion. Mr. JACKSON recalled that prior to the Act of 1933 it was the practice where any question arose as to whether in fact a house was controlled to require the landlord to prove that control existed. The Act of 1933 had been interpreted as having reversed this (*White* v. *Bembridge* [1935] 1 K.B. 244; *Heginbottam* v. *Watts* [1936] 2 K.B. 6), while under the new Act it will be assumed that a house, the subject of proceedings, is within the Acts unless the contrary is shown.

Legal Aid for the Poor.

MR. J. E. ALLEN-JONES, M.A., in the course of his paper on legal aid for the poor, outlined the facilities which at present exist for the assistance of poor persons, whether in criminal or civil cases. Reference in this connection was made to the Poor Prisoners Defence Acts of 1903 and 1930 and to the "Dock Brief," and, so far as civil matters are concerned, to the Poor Persons Procedure and to the voluntary association known as "The Poor Man's Lawyer." In regard to the Poor Persons Procedure he suggested that unclaimed balances might be used to form a fund to assist the very poorest in raising the necessary deposit, and intimated that that procedure might well be extended to the county court. He emphasised the need for the extension of activities such as those of the Poor Man's Lawyer Association and recalled that the Royal Commission on legal aid in civil cases, which was presided over by FINLAY, J. (as he then was), and which reported in 1928, expressed itself as satisfied that if in every important centre of population there was a poor man's lawyer the problem of legal aid would be to a very great extent solved. The speaker compared the facilities existing in this country with those available in Sweden and Scotland and put forward the advantages of the State bureau system which appeared to succeed in the former country. It would, he said, be a simple matter to organise State bureaux in a few important centres and to decide later whether or not the system should be extended. The bureau could deal with the present work of the Poor Persons Procedure and the poor man's lawyer and could also act as a Public Defence Department in criminal matters if that were thought desirable. In any case the speaker urged that there was real need for some kind of legal aid organisation in every industrial centre. Equality in the courts, he intimated, must be supplemented by equality outside the courts in the shape of equality of access to legal advice, and he suggested that a system of State bureaux, while providing due safeguard against litigiousness, would avoid much hardship to poor people who, without some system giving free legal advice, were unable to obtain the justice to which they were entitled. The paper is reported on p. 815 of the present issue.

The Preservation of Rural England.

IT is announced that SCOTT, L.J., is to speak at the eleventh annual conference which has been organised by the Council for the Preservation of Rural England, in conjunction with the Council for the Preservation of Rural Wales, and is to be held at the Town Hall, Chester, from the 13th to the 16th of the present month, with the object of stimulating public interest in the efforts of various societies and individuals to preserve and protect British scenery. An official of the Council for the Preservation of Rural England recently stated that the problem of safeguarding rural scenery and the historic features of towns and villages has been rendered more acute by the rapid increase in facilities for transport and modern development, and he urged that the continued encroachment on the amenities of the countryside render combined action more than ever necessary. The first session of the conference will be devoted to the subject of agriculture and the countryside, and a resolution is to be moved to the effect that the meeting, bearing in mind the fact that agricultural and rural Britain must be treated as a whole, urges that in providing facilities and amenities for the urban and rural population any conflict between these two sections should be avoided. The second session will be concerned with the approaches to towns, and the conference will be invited to pass a resolution recording a conviction that towns are suffering grave and increasing injury by unsightly development and advertising and that it is essential in the national interest that the dignity and decency of the approaches to such towns should be protected and improved. The resolution accordingly urges the local authorities and Government Departments concerned to exercise to the fullest extent their existing statutory powers in relation to amenities, and asks that such further powers as are necessary should, without delay, be conferred by Parliament. The third day will be devoted to the subject of National Planning, and it is on this topic that SCOTT, L.J., will speak.

Official Secrets: Select Committee's Report.

THE first report from the Select Committee on the Official Secrets Acts was recently published as a Blue Book (H.M. Stationery Office, price 1s. 6d. net). The committee, it will be remembered, was appointed to inquire into the substance of the statement made on the 27th of June last in the House of Commons by Mr. SANDYS and the action of the Ministers concerned—to which was subsequently added the summons of Mr. SANDYS to appear before the Military Court of Inquiry—and generally to consider the applicability of the

Official Secrets Acts to members of the House of Commons in the discharge of their Parliamentary duties. In view of the personal issues involved the committee has thought it better to postpone consideration of the larger issue and to deal with what is described as the first part of its task. It therefore set itself to determine whether, judged by ordinary standards of reasonable conduct and the accepted relationship between Ministers of the Crown and Members of the House of Commons, the actions of the Ministers concerned were open to criticism, and in order to come to a proper conclusion the committee has found it necessary to examine Mr. SANDYS' own actions in so far as they influenced the actions of the Ministers. The first part of the present report deals with this question; the second part of the report is concerned with the circumstances in which Mr. SANDYS, subject as an officer on the active list of the Territorial Army to military law, was summoned to appear before the Military Court of Inquiry. The matter contained does not lend itself to brief treatment and readers interested must be advised to consult the report itself. One sentence concerning the general position may be quoted: "Your committee," it is said, "desire at the outset to emphasise the importance of the questions referred to them, which directly affect not only Members of Parliament in the discharge of their duties, but which indirectly concern every individual citizen whose right it is in the last resort to have his grievances ventilated by speech and question on the floor of the House of Commons. Their inquiry, therefore, though largely concerned with what are known as the privileges of Parliament, is, in fact, connected with questions of freedom of speech and the protection of the individual from pressure by the executive, which lie at the very roots of our democratic system." The present report is restricted to the events and the persons concerned. The next report dealing with the wider issues will be awaited with very considerable interest.

The Juvenile Courts.

A FEW weeks ago (82 SOL. J. 702) we made reference to the subject of the juvenile courts in connection with an article by Miss WINIFRED A. ELKIN in the "Social Service Review." It would not be easy to overestimate the importance of this subject, and many readers may desire to pursue the matter further. Attention may, therefore, be drawn to the fact that Miss ELKIN is the author of a book entitled "English Juvenile Courts" (Kegan Paul, 12s. 6d.), where the whole subject is thoroughly investigated and a number of important suggestions are made. The author thinks there is little or no advantage in having a stipendiary as chairman in the juvenile courts, though she is insistent on the need for training on the part of those who sit in these courts. The legal questions involved fall for the most part within a narrow compass, and if the justices lack the legal knowledge required, this can, it is urged, be made good by the clerk to the court. But the understanding of delinquency, an appreciation of what lies behind it and of the real meaning of the various punishments and educative methods available and their probable effect upon the individual being judged, all these the justices must possess themselves. It is useless for the Legislature to stipulate that the welfare of the child or young person should always be considered if the justices know little or nothing of child psychology, and have never attempted to gain information as to the effects that various types of treatment are likely to have. Miss ELKIN states that, if the difficulties and responsibilities of the justices' work were universally recognised, the suggestion that every justice should go through a course of training recognised by the Lord Chancellor would rouse less opposition, and might come to be regarded as both right and natural. The objects of such a course would be to elucidate the basic facts of delinquent psychology and the causes of crime, and the course would include visits to some of the best courts and to the approved schools, as well as sufficient reading to give some idea of the outcome of other methods of treatment that cannot be studied so objectively, as applied both here and abroad. The author also insists on the advantages likely to be derived from inspections of the juvenile courts and the keeping of adequate records relating to those who come before them. These points and the many other features of interest in the book cannot be treated here, but readers may be confidently advised to peruse the work as an important contribution to the whole subject.

A Collection for "Charity."

AN example of the evils which the Bill regarding the collections for charities is designed to combat is furnished by a recent police court case, when a middle aged woman was fined 10s. for making an unauthorised collection in a certain town. In this case collections were only allowed by permission of the Watch Committee and, according to evidence given by the police, organisations such as that represented by the defendant knew that they would not have a chance of getting a permit. From its own figures for last year the society represented by the defendant collected approximately £900, of which only £84 went to charity, and it was said that collectors of the society got 50 per cent. of what they collected, plus expenses. The defendant said she had no idea she was doing wrong. She did not know what happened to the money. She got up to 25 per cent. of what she collected. The case was, it is true, one with which the present law was able to deal, but it points in no uncertain manner to the desirability of further legislation.

Rules and Orders (Draft): Waiting Vehicles.

NOTICE was recently given in the *London Gazette* of the proposal of the Minister of Transport to apply "no-waiting" regulations, already in force in Piccadilly, Oxford Street and Wigmore Street, to the whole of West and Central London, to a large area comprising congested sections of important roads required for through traffic, and to all side streets for a distance of 120 feet from their junction with the important roads concerned. The draft regulations, which are entitled the London Traffic (Miscellaneous Provisions) Regulations, 1938, are obtainable from the Ministry of Transport, price 2d. Any person desiring to make representations with regard to the proposals is advised to do so in writing to the Secretary, Ministry of Transport, not later than 2nd November, which is the last day by which observations and objections must reach the Minister. The no-waiting period, during which the stopping of cars for longer than is required for picking up or putting down passengers and personal luggage is to be prohibited, begins at noon and ends on Saturday at 3 p.m. and on other week-days at 7 p.m. Breaches of the regulations are to be punishable with fines not exceeding £5. The Minister has stated that he considers it important that it should be realised that the practice of parking in a public street is a privileged use of the highway and not one contemplated by the law governing the use thereof. He recognises, however, the need of parking facilities on the highway pending the provision of adequate accommodation for waiting vehicles elsewhere. In order to provide these facilities so far as possible in the localities to be affected by the regulations, the Minister proposes to give notice in due course of his intention to appoint new parking places and also to extend the limits of a number of existing car parks. Moreover, a new time limit—of one hour—is to be imposed between certain hours, with the object of affording temporary facilities in the limited space available to a greater number of vehicles and of avoiding what is described as the abuse of the accommodation available on the highway by those who use parking places for long periods instead of garaging their vehicles. Fire engines, ambulance and police and local authority vehicles being used as a matter of urgent necessity, and taxicabs waiting on authorised ranks, are among those exempt from the new provisions. It is proposed to bring the regulations into operation for an experimental period.

Decisions under the Matrimonial Causes Act, 1937.

(*Continued from page* 770.)

II.

THE first of the insanity cases, under ss. 2 (*d*) and 3 of the 1937 Act, was *Swettenham* v. *Swettenham* (1938), 54 T.L.R. 903; 82 SOL. J. 525, which came before the President. The case was defended, for the respondent wife appeared by a guardian *ad litem*, under the Matrimonial Causes Rules, 1937, r. 64 (i), and denied that she was incurably of unsound mind. Those in charge of the wife had not brought the knowledge of the proceedings to her, as, under r. 64 (4), they would not do so, if they were satisfied on medical advice that it would be detrimental to her mental condition to bring the knowledge to her. The wife had, however, learnt of the proceedings from the newspapers, but it is not clear from the report whether the proceedings were defended at her instigation, or of those in whose charge she was, but defended they were.

The learned President found that the wife was of unsound mind and had been continuously under care and treatment for a period of five years. He then came to the more difficult question of whether she was incurably of unsound mind. He rejected an argument that incurable had a different meaning from irrecoverable, and came to an affirmative conclusion, in spite of there having been previous periods of recovery, one of which had lasted for nine years. The reason was,

> "having regard to the length of the last onset, which now extends over eleven years, and above all to her age, I am satisfied that there is no prospect of cure."

As the parties were married in 1878 the wife's age must have been somewhat advanced.

There was a "faint suggestion," not raised on the pleadings, that there had been something in the nature of conduct conducing, which can be raised as a discretionary bar in a case on insanity, under s. 4 (*d*) of the Act. The learned President found that there was no evidence of this, and pronounced a decree accordingly.

Teall v. *Teall* (1938), 54 T.L.R. 960; 82 SOL. J. 682, came before the Divisional Court, consisting of the President and Mr. Justice Collins, on appeal from the Justices of St. Augustine, Canterbury, who had made a maintenance order under the Summary Jurisdiction (Married Women) Act, 1895, as amended by s. 11 (*i*) of the 1937 Act, against the husband on the ground of adultery. The wife commenced proceedings on 15th January, 1938, based on a confession by her husband on 5th August, 1937, in which confession no date for the adultery was given.

The question arose as to whether the six months' limitation, imposed generally for summary proceedings by the Summary Jurisdiction Act, 1848, s. 11, applied, and if so whether the six months ran from the commission of the act of adultery or from its discovery.

The court held that the six months' limitation did apply, and that it ran from the commission of the act of adultery, or the last act if more than one. As there was no evidence of when the adultery was committed, the case was sent back to the justices for further hearing. It was also held that the evidence necessary to establish adultery in a magistrates' court was the same as in the High Court.

The case of *H* v. *H* (1938), 54 T.L.R. 1000; 82 SOL. J. 627, is not a nullity case as the absence of names suggests, but one dealing with the effect of a compromise of previous proceedings on a claim made under the new Act. The wife brought a suit for judicial separation in 1929, which was compromised on the terms, *inter alia*, that all charges of cruelty should be withdrawn. In 1938, finding that she could petition for divorce on the ground of cruelty, the wife presented a petition for divorce, alleging the same charges of cruelty as in the petition for judicial separation. The President held that the compromise barred the fresh petition.

That the petitioner's adultery is a discretionary bar, in the case of a petition for divorce based on desertion, was decided in *Herod* v. *Herod* (1938), 54 T.L.R. 1134; 82 SOL. J. 665, by the President. Although the case was undefended, there was an argument presented to the court by the King's Proctor against the petition, at the request of the President, in view of the importance of the decision. This argument was principally directed to the point that the desertion could not be "without cause," if the petitioner had committed adultery, even if the respondent were unaware of it. The President, however, decided in the manner stated above, and exercising his discretion in favour of the petitioner, granted a decree.

Inferentially this case also decides that adultery is a discretionary bar in all cases where divorce may be granted under the new Act, for there is no basis of distinction, unless it can be said that the proviso to s. (4) is so clear that no decision is necessary.

The three cases decided by Mr. Justice Langton last term of *Johnson* v. *Johnson*, 54 T.L.R. 1120; 82 SOL. J. 698; *Starkey* v. *Starkey*, 54 T.L.R. 1117; 82 SOL. J. 745; and *Watson* v. *Watson*, 54 T.L.R. 1117; 82 SOL. J. 714, deal with circumstances in which the three years' desertion period may or may not be interrupted by acts of the petitioner.

Johnson v. *Johnson* decided that where a husband presented a petition for judicial separation in 1928, based on the wife's desertion, and subsequently withdrew it, the desertion period continued to run. The reason was that under s. 6 ( ) of the 1937 Act, a decree of judicial separation would not have had this effect, so that it could hardly have been intended that the mere presentation of a petition should have done so.

In *Starkey* v. *Starkey* and *Watson* v. *Watson* there were separation agreements entered into between the parties, which were not observed by the husband in each case. Mr. Justice Langton decided in both cases that on the facts there was a continuing desertion for the three years' period.

The two cases of *Timins* v. *Timins* and *In re The Board of Control*, which are reported [1938] W.N. 323, are of considerable interest as giving the practice of the official solicitor and the Board of Control.

In *Timins' Case* the President approved what was stated to be the practice of the official solicitor, namely—

> "to ascertain (1) if there were any evidence that the respondent's illness was caused by the petitioner; (2) whether the petitioner had pursued a course of conduct which would enable a cross-petition to be filed or necessitate the petitioner's filing a discretion statement; (3) the medical history of the respondent, if possible, from the Board of Control and at any hospital where the respondent had been detained; (4) the petitioner's means and the manner in which the respondent had been maintained since the illness, so that the question of the respondent's permanent maintenance might be properly placed before the court; and also to instruct (5) an independent medical man to visit and report on the respondent's mental condition."

The Board of Control, after an intimation had been given of the views of the court by the President, publicly stated that all statutory documents, reports and certificates would be furnished to *bonâ fide* applicants desirous of taking divorce proceedings. The President further said that he would like copies of the Board's file to be used in evidence.

The cases so far decided appear to establish the following propositions:—

(1) The Act is retrospective to the extent that:—

(*a*) Desertion or insanity which began before the Act may be relied on: *Chapman* v. *Chapman, etc.*; *Swettenham* v. *Swettenham*.

(*b*) In proceedings begun before the Act the burden and standard of proof are as laid down in the Act, for example, in the cases of condonation or connivance: *Germany* v. *Germany*; *Poulden* v. *Poulden*.

(2) The Act is not retrospective to the extent that relief first conferred by the Act will be granted on proceedings begun before the Act: *Chapman* v. *Chapman and Thomas.*

(3) The onus is on the petitioner to establish that there is not, and the court must be satisfied that there is not, connivance, condonation or collusion, before a decree can be granted: *Poulden* v. *Poulden*; *Germany* v. *Germany* and *Beattie* v. *Beattie.*

(4) The three years' period of desertion runs notwithstanding that:—

(*a*) The person deserted has taken proceedings for divorce, if the other spouse has initiated the proceedings: *Chapman* v. *Chapman, etc.*

(*b*) A petition for judicial separation has been presented and withdrawn, *a fortiori* if a decree has been made on such a petition: *Johnson* v. *Johnson.*

(*c*) A separation agreement has been entered which has been so far repudiated by the deserting spouse that it can be disregarded: *Watson* and *Starkey's Cases.*

(5) The petitioner's adultery is a discretionary bar in the case of a divorce for desertion, and presumably in all other cases of divorce: *Herod* v. *Herod.*

(6) The court will find a spouse incurably of unsound mind, although there may not be direct evidence by an alienist that the condition is incurable. Incurable means irrecoverable. If there is no prospect of a cure at the time of the trial, the court may treat this as sufficient: *Swettenham* v. *Swettenham.*

(7) A guilty spouse may, at discretion, be allowed to make a decree absolute, though in contempt as to costs. Where such application is made, the conduct of the other spouse will be considered, and an attempt to exact unreasonable terms may result in the application being granted: *Gower* v. *Gower.*

(8) The usual six months' limitation under the Summary Jurisdiction Acts applies to an application for a maintenance order, on the ground of adultery, under the Summary Jurisdiction (Married Women) Act, as amended by the 1937 Act. The time runs from the last act of adultery that can be proved: *Teall* v. *Teall.*

The Valuation of Goodwill.

THE goodwill of a business is generally an elusive item of property. It is hard to define, and the question of its value is as difficult to estimate as the compensation to be paid for a life that has been brought to an end by negligence. A decision has recently been given by the Court in Scotland on the question of goodwill, and although no question of law was involved, the case may be of interest as illustrating the correct method of arriving at the value of goodwill for the purposes of death duties. The business to which goodwill was attached in this case was a partnership owning a well known Scottish newspaper, and in the course of the proceedings the following two methods of valuing goodwill were disclosed:—

(1) That the value should be estimated as if the goodwill were a quite separate asset of the business; or

(2) That the value of the business and all its assets as a whole should first be obtained, and from this should be deducted the value of the tangible assets, leaving the balance as the true value of the goodwill.

As regards the first method, experts concerned with similar journals in England gave their opinion that for a newspaper business, three-years' purchase of the net profits may generally be taken as the value of the goodwill and that the net profits fall to be ascertained by taking an average of the profits for the three years preceding the date of valuation. In the case in question, owing to specially adverse circumstances in 1930 (for which year the value had to be ascertained), they fixed the number of years' purchase at two and a half years, and valued the goodwill as a separate item at two and a half years' purchase of the three-year average profits. The judges did not regard this method as satisfactory. There was no evidence to support the general multiplier of three. If as regards any particular kind of business, a rule has been adopted in practice of using some multiplier of net profits, it would be entitled to respect, but there was no evidence of that character in the newspaper industry.

The second method of valuation was the one approved by the court. It must be assumed that the hypothetical transaction contemplated by s. 7 (5) of the Finance Act, 1894, takes place between a willing seller and a willing purchaser, and that the purchaser is a person of reasonable prudence, who has informed himself with regard to all the relevant facts, such as the history of the business, its present position, its future prospects and the general conditions of the industry, and also that he has access to the accounts of the business for a number of years. Having obtained all relevant information, the hypothetical purchaser would consider in the first place the risks which are involved in carrying on the business, and would fix the return which he considered he ought to receive on the purchase price at a rate per cent. The only other factor which he would then require to determine would be the annual profits which he would derive from the carrying on of the business. The determination of these two factors would enable him to fix the capital value of the business. A seller looking at the matter from the opposite point of view would deal with it on similar lines.

As regards the first factor, the advisers on both sides were prepared to agree that 12½ per cent. would be the expected rate of profits. This would give a multiplier of eight. As regards the net profits, while both sides agreed that income tax and debenture interest should not be deducted, one side put forward the average profits for the three years preceding the death, while the other side took the actual profits for the last of these years. The court considered that a three-year average was usual and operated equitably in dealing with a well-established business which has normal ups and downs, but no violent fluctuations in either direction. But if there is a definite trend upwards or downward, it may be different. If, for example, profits are increasing year by year by large figures, an average of three years may be unfair to the seller. If there is a similar movement downwards, it may be unfair to the purchaser. In the case in question, owing to various factors, there was a definite slump in the year of death, so that a buyer would not expect the business to earn the three-year average in the immediate future, and he would proceed on the view that the business would not recover from this set-back for some years. The court therefore while basing its calculations on the three-year average of profits, made a substantial allowance therefrom in respect of the abnormal decline in the year of death. The *cumulo* value of the whole business was then obtained by multiplying the net profits so arrived at by eight. From this total the agreed value of the tangible assets of the business was deducted, and the balance was fixed as the true value of the goodwill at the date of death. The existence of debentures was regarded as an immaterial circumstance so far as the ascertainment of the goodwill was concerned, although they would, of course, be deducted from the value of the business before the interest of the partners could be determined.

Company Law and Practice.

Some General Observations on Underwriting.

IN *Re Licensed Victuallers Mutual Trading Association, ex parte Audain* (1889), 42 Ch. D. 1, it was declared by Cotton, L.J., at p. 6, that " . . . an 'underwriting' agreement means an agreement entered into before the shares are brought before the public, that in the event of the public not taking up the whole of them, or the number mentioned in the agreement, the underwriter will, for an agreed commission, take an allotment

of such part of the shares as the public has not applied for. That is what is meant when it is said that a person has agreed to underwrite a certain number of shares in a company." In this case the underwriters had agreed to subscribe for 10,000 shares upon certain terms, adding a postscript to their letter (which will be further referred to in this article) to the effect that "we further agree to pay the application money upon any balance of shares required to make up the 10,000 within one week's date." It was held that the agreement to underwrite must be treated not merely as a guarantee, but as an application for an allotment of so many of the shares to be issued as should not be applied for by the public, and that such agreement authorised the secretary of the company to issue an allotment to the underwriter.

In such a case, the consideration to the underwriter is the payment of a commission to him in return for his having made the contract with the company, such commission being payable whether or not the underwriter is called upon to take up any shares.

The simple form of an underwriting or sub-underwriting letter or contract, as it is sometimes called (although it is not a contract until it is accepted), appears from the preceding paragraphs. It usually authorises the person to whom it is addressed to apply in the name of the underwriter should he fail to do so when called upon. In *Re Hannan's Empress Gold Mining & Development Co.; Carmichael's Case* [1896] 2 Ch. 643, C signed an underwriting letter addressed to the promoter whereby, in consideration of a commission, he agreed to subscribe for 1,000 shares in the company, such number to be reduced by the number of shares taken by the public. C further agreed that the agreement and application should be irrevocable, and, notwithstanding any repudiation by him, should be sufficient to authorise the promoter to apply for shares on behalf of C and the company to allot them. The promoter, by letter, accepted these terms. It was held by the Court of Appeal, affirming the decision of Stirling, J., in the court below, that the authority given to the promoter by the underwriting letter to apply for shares on behalf of C was an authority coupled with an interest, and therefore not revocable. The agent in such a case is as well an agent to receive notice of allotment as to make the application.

So far, the position considered has been that between the underwriter or sub-underwriter and the agent whom he has authorised to make the application. Once, however, the application has been delivered to the company, the result is that as between the company and the underwriter or sub-underwriter the application is equally irrevocable: *Olympic Re-insurance Coy.* [1920] 2 Ch. 341. Before this position is reached, the agent or recipient of the underwriting letter must have carefully performed all conditions; he must have accepted the underwriting letter and communicated his acceptance to the underwriter, if the bargain is to become a binding one. Thus, in *Re Harvey's Oyster Co.; Ormerod's Case* [1894] 2 Ch. 474, the underwriters agreed with the vendor to a company, in consideration of a commission, at any time within three months "if and when called upon" by him "to subscribe or find responsible subscribers for" a certain number of shares in the company, to be proportionately reduced in case the shares were partially subscribed for by the public. The agreement authorised the vendor, in the event of any underwriter "not subscribing or finding responsible subscribers as above mentioned," to subscribe for the shares in the underwriter's name, and to authorise the directors to allot the shares and to register the underwriter's name in respect thereof. It was common ground in this case that no request to subscribe or to find responsible subscribers was ever made to the underwriters. It was held that since such a request was a condition precedent to their being under a liability to be treated as shareholders, and that as no such request had been made, their names must be removed from the list of contributories in the winding up of the company.

Vaughan Williams, J., distinguished *Ex parte Audain, supra*, on the ground that the postscript to the underwriters letter in *Ex parte Audain* clearly showed that the underwriter considered his letter not only as a guarantee but as an application for allotment: but the learned judge decided that, in the case before him, the request which should have been made to the underwriters was a condition precedent, the non-performance of which was fatal to the contention that the letters in question were complete authorities to the recipient to subscribe in the name of the underwriters.

A further common provision in an underwriting letter is that it is to hold good notwithstanding any variation in the prospectus. What would amount to a "variation" in any given case would be difficult if not impossible of definition, but it appears that if the changes are such as practically to constitute a different venture, the underwriter is not irrevocably bound in the event of such a "variation." This is illustrated by *Warner International and Overseas Engineering Co. Ltd.* v. *Kilburn, Brown & Co.*, 84 L.J. Ch. 1365. In this case a draft prospectus stated that the minimum subscription on which the directors could proceed to allotment should be £15,000, which had been underwritten at a commission of 5 per cent. thereon and an overriding commission of 2½ per cent. The purchase price to be paid by the company for the assets which it was to acquire was declared to be £35,000, payable as to £9,000 in cash and £26,000 in fully paid ordinary shares of £1 each. The defendants signed an underwriting letter, the relevant terms of which, so far as concerns the present discussion, were as follows: "Gentlemen, (1) With reference to the draft prospectus dated," etc., "and marked 'draft subject to revision,' which, when finally settled, you propose to issue, and for the consideration hereinafter mentioned, I, the undersigned, agree with you that on the publication of your prospectus I will on your request apply in the form referred to in such prospectus for 500 £1 ordinary shares in your capital. . . ." followed by a promise to accept and to pay all money due in respect of such allotment. "(2) My subscription is to be on the terms of your prospectus as finally settled and filed with the registrar of joint stock companies. . . ." "(8) My obligation hereunder is to hold good, notwithstanding any variation between the draft prospectus submitted to me as above referred [*sic*] and the prospectus as finally settled and published."

Subsequently the clause in the draft prospectus relating to the directors proceeding to allotment was altered to read as follows: "The minimum subscription on which the directors may proceed to allotment is fixed by the articles of association at £100, as 5,000 shares of this issue have been underwritten at a commission of 5 per cent. and an overriding commission of 2½ per cent. payable by the company. The directors will proceed to allotment on the closing of the lists."

The altered prospectus also stated that if the issue of shares was not fully subscribed, the £9,000 cash, part of the purchase money, might be paid as follows: within seven days after each allotment of shares for cash the plaintiff company were to pay one-sixth of the amount of the nominal value of the shares so allotted until the £9,000 had been fully paid and any balance remaining unpaid after seven days from the date of the first general allotment was to bear interest at 5 per cent. per quarter.

The defendants contended that these were more serious variations than any contemplated by the underwriting letter: that their risk was materially altered thereby, and that, as the variations had been made without their assent, they were discharged from their obligation under the letter.

Pickford, J., in the court below, held that the words in cl. 8 (*supra*) of the underwriting letter, permitting variations between the draft prospectus and the prospectus as finally settled, were wide enough to cover the variations to which the

defendants took objection. The Court of Appeal, however, decided that the alterations in the prospectus amounted to an alteration in the character of the company, that they were not included in the word "variations" in cl. 8 of the underwriting letter, and accordingly allowed the appeal.

A Conveyancer's Diary.

Devise of a House for occupation. Effect of s. 106 of the S.L.A., 1925.

I HAVE recently had to consider once more the effect of s. 106 of the S.L.A., 1925, the purpose of which is to render void any provisions which might prevent a tenant for life exercising, or tend to induce him not to exercise, his powers under the Act.

The section reads as follows:—

"(1) If in a settlement, will, assurance or other instrument executed or made before or after or partly before and partly after the commencement of this Act a provision is inserted—

(*a*) purporting or attempting by way of direction declaration or otherwise to forbid a tenant or statutory owner to exercise any power under this Act or his right to require the settled land to be vested in him; or

(*b*) attempting or tending or intending by a limitation gift or disposition over of settled land or by a limitation gift or disposition of other real or any personal property or by the imposition of any condition or by forfeiture or in any other manner whatever, to prohibit or prevent him from exercising or to induce him to abstain from exercising or to put him into a position inconsistent with his exercising any power under this Act or his right to require the settled land to be vested in him;

that provision, so far as it purports or attempts or tends or is intended to have or would or might have the operation aforesaid, shall be deemed to be void.

(2) For the purpose of this section an estate or interest limited to continue so long only as a person abstains from exercising any such power or right as aforesaid shall be and take effect as an estate or interest to continue for the period for which it would continue if that person were to abstain from exercising the power or right discharged from liability to determination or cesser by or on his exercising the same."

The effect of this section in cases where a testator devises a house to, say, his widow for so long as she shall reside in it, and on her ceasing to reside, to others, seems to be quite unnecessary and unreasonable.

In *Re Acklom* [1929] 1 Ch. 195, a testator bequeathed a leasehold house and certain chattels therein to his trustees upon trust to permit his sister E.H. to reside there after his death, if she should wish to do so, and to have the use and enjoyment thereof during her life free of rent or other payment, and he gave to his said sister the use and enjoyment thereof for her life accordingly, and he directed his trustees after her death or during her life if she should not wish to reside or continue to reside there to sell the same and divide the proceeds between certain charities. E.H. resided in the house for some years and then went abroad for the benefit of her health. Owing to illness she was prevented from returning to England and from time to time let the house. Later E.H. sold the house under her powers under the S.L.A., 1925.

Maugham, J., held that E.H., as tenant for life, was entitled to let the house without incurring any forfeiture, and that she was entitled to the income of the proceeds of sale.

That, of course, was quite contrary to the testator's wishes, and I see no reason why the Act should interfere to prevent those wishes being carried out.

Another case is *Re Patten* [1929] 2 Ch. 276.

A testator directed his trustees to retain £3,000 and to apply the interest yearly in payment of the taxes, rates and repairs of his freehold house, and he desired that his aunt should "have the use of it and my furniture free of cost for her occupation during her life or so long as she may require them but without the power to sublet the same or any part thereof; on the termination of her occupation the house is to be sold" and from the proceeds, added to the £3,000, certain legacies were to be paid. He also provided that when the house had been sold his nephew G.P. should have the furniture.

Romer, J., held: (1) that the provision forbidding the tenant for life to sublet was void under sub-s. (1) of s. 106 of the S.L.A., 1925, and that the provision requiring the house to be sold and the gift over of the proceeds of sale upon the termination of her occupation was also avoided by that sub-section so far as that provision would operate in the event of her exercising any of her powers as tenant for life; (2) that the gift over of the £3,000 was a provision which tended to induce the tenant for life from exercising her powers of leasing as tenant for life and was void, therefore, so far as it had that tendency; and that it should be read to take effect only upon her ceasing to reside for any reason other than the exercise of her powers of leasing as tenant for life; (3) that in the event of her selling the house she would not be entitled to be paid any part of the income of the £3,000; and (4) that she was entitled to the furniture during her life or until she ceased to occupy the house for any reason other than the exercise of her powers as tenant for life.

It seems, therefore, that the tenant for life could sell the house under her statutory powers and would be entitled to the income of the proceeds of sale; if she did so, however, she would not be entitled to the income of the £3,000. It was contended that the tenant for life should, in that event, have so much of the income of the £3,000 as would have been required to pay the rates and taxes and for the repairs if the house had not been sold. The learned judge, however, held that she would not be so entitled.

It appears, also, that if the tenant for life let the house under her statutory powers the income of the £3,000 would continue to be applicable in payment of the outgoings and repairs with the consequence that she would continue to have the benefit of the income of the £3,000 in the increased rent which she could obtain by reason of the outgoings and repairs being paid in relief of the tenant.

Lastly, it seems that whether the tenant for life sold or let the house she would be entitled to the use of the furniture during her life, but she would be deprived of that if she ceased to occupy the house without selling or letting it.

So the wishes of the testator were defeated.

The testator could, of course, have achieved his purpose by giving the house to trustees upon trust for sale with a proviso that his aunt should be allowed to occupy the house for so long as she chose and that so long as she did wish to occupy it no sale should be made without her consent. It would, however, not be easy to explain to a layman that if he wished to prevent the house being sold during the lifetime of his aunt or for so long as she chose to occupy it, he must devise it upon trust for sale.

Landlord and Tenant Notebook.

Tender after Distress.

IT sometimes happens that after a distress has been levied the tenant finds money for the rent due and costs incurred, or that a third party distrainee finds these moneys. Normally it will suit the landlord to release the goods in return for the money; but is he obliged to do so?

The tender may be made either before or after the goods have been impounded. When it is made before the impounding, there has, I think, never been any doubt what the position is: the goods must be returned at once. In *Vertue*

v. *Beasley* (1831), 1 Moo. & Rob. 21, it was argued that the distrainor's refusal, even when followed by a sale, was at the most a mere irregularity; but the court held that the Distress for Rent Act, 1737, s. 19, which deals with irregular distress, expressly gave the tenant the option of suing for trespass. A few years later in *Evans* v. *Elliott* (1836), 5 Ad. & El. 142, it was decided that the mere detainer of the unimpounded goods after tender was actionable, for unlawful detention amounted to taking.

The potential importance of the consideration whether the impounding had or had not taken place at the time of the tender became apparent in *Thomas* v. *Harries* (1840), 1 Man. & Gr. 695. This was an action for replevin, the facts being that the tenant had tendered the rent and a sum for costs after the levy, but the bailiff wanted more on the latter account. It was held that the amount tendered was sufficient; the question then arose, whether the tender was before or after the impounding of the goods. This made further facts relevant: it appeared that the day before the tender the bailiff had placed his hand upon a bullock, and the following day, still before the tender, had served a proper notice of intention to sell, with inventory specifying that and other animals. It was held, by a somewhat hesitant majority, that this constituted impounding (effect being given to the "or otherwise secure" of the Sale of Distress Act, 1689). But what is important for present purposes is the implication that a tender after the impounding of distress could have no effect. And this, in fact, was held to be the law shortly afterwards in *Ellis* v. *Taylor* (1841), 8 M. & W. 415, a sale after a tender which came after impounding being held non-actionable.

A little more light was thrown on the problem by the result of a demurrer taken in *West* v. *Nibbs* (1847), 4 C.B. 172, an action brought for trespass. Here it appeared that the arrears of rent and the costs of the distress had been not only tendered but accepted by the distrainor, who had nevertheless sold the goods seized. Whether the tender and acceptance occurred before or after impounding did not appear in the pleadings, and the court therefore assumed that it was after the impounding. The technical point relied upon by the defence was that retaining and selling goods of another could not be trespass, and he was able to rely on one of the resolutions in the *Six Carpenters' Case* (1611), 8 Co. Rep. 146b: "that not doing cannot make a party a trespasser *ab initio*; because not doing is no trespass; and, therefore, if the lessor distrain for his rent, and thereupon the lessee tenders him the rent and arrears . . . and requires the beasts again, and he will not deliver them, this not doing cannot make him a trespasser *ab initio*." On this, the demurrer was upheld: but the court dropped a hint that the resolution would afford no answer to an action for *conversion*.

Such was the state of the authorities when *Johnson* v. *Upham* (1859), 28 L.J.Q.B. 252, came to be argued. The facts were that the defendant, having distrained the plaintiff's goods, removed and sold them after a tender of arrears of rent and costs of distress (the explanation in this case was that a mistake was made in the matter of the amount of the arrears). This time the effect of the Sale of Distress Act, 1689, was more closely examined, with the result that *Ellis* v. *Taylor*, *supra*, was overruled. It was pointed out, in the course of the argument, that the statute gave the distrainee five days in which to replevy the goods, not five days in which to tender and pay rent and costs. It was held that, while at common law a tender after impounding availed nothing, there was an action upon the equity of the statute in question. For the heading of the enactment runs: "An Act for enabling the Sale of Goods distrained for Rent, in case the Rent be not paid in a reasonable Time." While this was no part of the Act, it might be referred to for the purpose of ascertaining the object of the legislation, and it clearly indicated that a tenant was entitled to have his goods released if he satisfied the debt.

The decision is another reminder of the fact that the Sale of Distress Act, 1689, brought about a minor revolution in law relating to this remedy. But it should be noted that the tenant complained not of, or not only of, detention and refusal to return the goods, but of their actual sale: also that the tender he had made was made within five days of the seizure. The authority does not say that a distrainee may recover his goods by tendering when the statutory period has elapsed or at all, and the contrary opinion was voiced. To solve this problem it is necessary to consider the nature and object and effect of impounding distress.

Text-books generally tell us that distress should be impounded immediately after seizure, but do not tell us why. Since the passing of legislation dealing with the sale of distress and impounding on the premises, it may be that impounding is practically automatic; but the fact remains that, in order to answer the question whether a tender after impounding but before any sale obliged the distrainor to release the goods, which question is casually referred to in *Johnson* v. *Upham*, *supra*, the nature, etc., of impounding must be gone into.

In the judgment Wightman, J., said that at common law tender after impounding availed nothing. No authority was cited, but a reference to the report of the argument shows that Coke was considered to hold this view.

Now in "Coke on Littleton" l. L, c. 7, s. 58, we are told to "note . . . that he that distraines any thing *that has life* must impound them in a lawfull pownde . . . and that it is either overt," etc., and there follows a description of the distinction between open and closed pounds and the consequent difference in the incidence of the duty to look after the animals. Then: "But if the distresse be of utensils of household, or such like dead goods which may take harme by wet or weather, or be stolne away, then he must impound them in a house or other pownde covert . . . for if he impound them in a pownde overt he must answer for them."

In my submission this passage does not lay down any obligation to impound at all; it assumes that the distrainor will want to impound the distress in order to protect himself, and really deals with the rules governing choice of pound. Apart from a limitation of liability, the distrainor has the advantage that interference with impounded goods cannot be justified, is a criminal offence and a civil offence which entitles him to treble damages.

Other authorities sometimes relied on in support of the proposition that tender after impounding is too late are *Pilkington's Case* (1601), 5 Co. Rep. 76*a* and *Firth* v. *Purvis* (1793), 5 T.R. 43. The former is especially favoured in this way, but on examination it appears not only that it concerned a matter of distress damage feasant, but also that the "tender of amends" did not, as far as the report goes, provide for the expenses of impounding. In the second-mentioned case the matter was one of distress for rent, but, apart from the fact that the court thought there had been no tender, what it decided was that even if the tender were good it was *insufficient*—not that it availed nothing; which suggests that they construed the tenant's offer "to pay your demand" as limited to the rent.

More formidable is another part of the resolution in the *Six Carpenters' Case* already cited. "Note, reader, this difference, that tender upon the land before the distress makes the distress tortious; tender after the distress and before the impounding makes the detainer, and not the taking, wrongful; tender after the impounding makes neither the one nor the other wrongful; for then it comes too late, because then the cause is put to the trial of the law, to be there determined." If no reason had been given for the "too late," the authority would indeed strongly support the proposition; but the reason given suggests that the judges envisaged legal proceedings by someone. The next sentence bears this out: "But after the law has determined it, and the avowant has return irreplevisable,

yet if the plaintiff makes him a sufficient tender, he may have an action etc."

In the result, I submit that the authorities do not justify the opinion that, in the absence of a replevy, a tenant cannot recover the impounded goods by paying up; and when one considers that before the Sale of Distress Act, 1689, distress was merely a pledge, the conclusion that the tenant could so recover them is, surely, irresistible.

Our County Court Letter.

CLAIM FOR GRASS-KEEPING.

In a recent case at Wellingborough County Court (*Baker* v. *Wilson*) the claim was for £22 18s. for grass-keeping. The defendant admitted liability for £8 10s., but counter-claimed £13 8s. for hay supplied and work done. The plaintiff's case was that thirty-four beasts were kept for six weeks beyond an agreed period, whereby the plaintiff lost a crop of hay. A horse of the defendant had admittedly been used for carrying some hay, but there was no arrangement about paying for its use. The defendant's case was that, owing to a standstill order (by reason of foot and mouth disease) the cattle could not be moved. In consequence an exorbitant price was being charged for their keep. The agreed price for the keep was £45, and the defendant bought all the hay of the plaintiff, who agreed to allow £1 10s. in respect of a portion used by him for calves. The cattle were to be fed by the plaintiff, but, as they were apparently not being properly looked after, the defendant arranged for a man to look after them. The horse had been supplied at the request of the plaintiff, who nevertheless had disputed liability to pay for it. The sum of £41 had been paid on account of the £45 agreed for the winter keeping. His Honour Judge Galbraith, K.C., assessed the value of the keep for the six weeks at £15. On the counter-claim the defendant was entitled to £2 for the use of his horse, £1 10s. for labourer's time, and £1 10s. as the price of the hay supplied. In the result, judgment was given for the plaintiff for £14 with costs, less £3 due to the defendant for costs.

THE SCHOOLING OF HUNTERS.

In *Gloster* v. *Priest*, recently heard at Bletchley County Court, the claim was for £18 17s. 10d. for schooling a hunter, and the counter-claim was for £50 as damages for negligence. The claim was admitted, subject to the counter-claim, upon which the defendant's case was that the horse had been injured by a fall at a post and rail fence. The plaintiff was admittedly protected by an agreement, under which he was immune from liability for accidents. The counter-claim arose, however, by reason of negligence in the after-treatment of the horse. Chalk and white oils had been applied, within the bandage, whereas embrocation was definitely harmful in such circumstances. The result was to set up inflammation from a chronic irritation, and the value of the horse had been reduced from £90 (when it was imported from Ireland "half-made") to about £20 to £40. The plaintiff's defence to the counter-claim was that, although the leg was "calloused" or enlarged, this was consistent with a thickening or puffiness of the tendon sheath, as a result of the accident. Corroborative evidence was given by a veterinary surgeon that the treatment would have no deleterious effect. His Honour Judge Hurst held that there was no evidence that the blistering, from the knee to the fetlock, had caused the enlarged tendon. The latter was one of the results of a bad injury, and no attempt had been made to sell the horse or to ascertain its market value. Although there had been some lack of attention, the plaintiff's treatment had not been proved to be wrong. Judgment was given for the plaintiff, on the claim and counter-claim, with costs.

To-day and Yesterday.

Legal Calendar.

3 October.—On the 3rd October, 1759, two highway robbers, a horse-stealer and a murderer, had the novelty of being executed at Tyburn on the new portable gallows which had just been substituted for the old fixed model and which preceded them on their journey thither. A young woman who had a wen on her neck was held up in a man's arms, and the hand of one of the hanging malefactors was several times rubbed over it with much ceremony, "so that," says an observer, "if it shall please God to remove the complaint, a miracle will be imputed to the wonder-working hand of a dead thief."

4 October.—On the 4th October, 1783, eighty convicts were taken from Newgate and put on board a lighter at Blackfriars Bridge, which proceeded with them to Blackwall, where they were shipped on board a transport sailing for the colonies. On the way down the Thames, "they behaved so audaciously that it was found necessary to fire amongst them by which three of the ringleaders were shot dead."

5 October.—All his life Lord Cardigan, the valiant but erratic hero of the charge of the Light Brigade, was getting himself mixed up in legal disputes. He was tried by his peers for shooting an opponent in a duel. He was defendant in an action for "crim. con.," and late in life he applied for an information for criminal libel against a brother officer. One of his early experiences of judicial proceedings was a court martial at Brighton, in 1840, when, as commanding officer of the 11th Hussars, he prosecuted a Captain Reynolds of that regiment for sending him a challenge. There is little doubt that he had abused his position to afford grievous provocation to his subordinate. Nevertheless, after a hearing ending on the 5th October, Reynolds was sentenced to be cashiered.

6 October.—Lord Brampton, better known as Sir Henry Hawkins, died at his house in Tilney Street, London, on the 6th October, 1907.

7 October.—On the 7th October, 1935, there was witnessed a spectacle not often seen, one of the judicial luminaries of the House of Lords descending to accept an office in an inferior court. On that day Lord Wright was appointed Master of the Rolls. The case was not, however, without parallel, for the first Lord Russell of Killowen, when he was appointed Chief Justice, was also a Lord of Appeal in Ordinary. Even more surprisingly, Lord Lyndhurst, after he had been Lord Chancellor, accepted the appointment of Chief Baron of the Exchequer.

8 October.—You remember the old law of deodands and how any object which had been instrumental in taking human life was forfeit to the Crown so that its price had to be duly accounted for by the owner. Not a century ago a railway company had to pay £2,000 as a deodand. The eighteenth century was a little more ingenious than that. In the riotous rejoicings of the populace over the election of John Wilkes as Lord Mayor of London in 1774 a man was run over and killed by the State coach. The coroner's jury on the 8th October brought in a verdict of accidental death, but, instead of declaring the whole costly vehicle a deodand, they found that its near fore-wheel was the cause of death and valued it at 40s.

9 October.—On the 9th October, 1912, an anarchist named Alba, convicted of an attempt on the life of the King of Italy, was sentenced to thirty years' imprisonment, seven to be spent in solitary confinement. In March, when the King and Queen were driving from the Quirinal Palace to Mass, he had stepped into the roadway near the Salviati Palace and fired two shots at the royal carriage, wounding the officer in charge of the mounted escort.

THE WEEK'S PERSONALITY.

In a time when a good many picturesque characters sat on the bench, Hawkins, J., had a very special niche of his own. He was a little withered man who, as was recently written, "had the appearance of a very sophisticated old racecourse habitué—as indeed he was." Mixing in all classes of society he had acquired a knowledge of human nature which astounded the more simple minded. After a witness had been apparently sucked dry in examination and cross-examination, Hawkins, with a few quiet questions from the bench, could get the whole truth out of him, revealing a whole new aspect of the case in a manner which was at times quite uncanny. But in his personal behaviour to those engaged before him he was a veritable imp of mischief, delighting to be "contrairy." He took a malicious pleasure in detaining counsel and jurymen in court when their cases could not possibly come on. On circuit he would sit far into the night, alert while everyone else was dropping with fatigue. His courts were overheated to the point of suffocation. Hardly a living creature saw his tender side, save Jack, his fox terrier, which he took everywhere, even to court. Yet there was a grandeur in the man's courage. In his last moments the priest attending him asked him whether he was afraid to die. "Afraid?" said the old man. Then with the most forcible emphasis he declared: "I want to *see* Jesus Christ."

AN EARLY RISER.

A recent letter in the *Daily Telegraph* quoted some interesting and curious reminiscences of a nephew of the late Thomas Webster, Q.C., father of Lord Alverstone. It seems that he was "aroused about six a.m. by the future Chief Justice Lord Alverstone to take a run in the Kensington Gardens and a drink at the chalybeate fount which in those days was dispensed by a handmaiden. Then to prayers and breakfast, after which father and son left for the Temple. I believe that Dick made a point of being in Chambers by nine a.m." Early rising remained one of the characteristic features of the constant hard work by which Richard Webster raised his mediocre talents to eminence. Sir Edward Clarke, on the other hand, was habitually a late riser. Once, while they were serving together as law officers, Webster fixed a consultation for half-past nine in the morning, but received from his colleague the following letter: "My dear Attorney, I will do anything in the world for you, but I will not get up in the middle of the night."

BENCH *v.* BAR.

A recent scene in court between the acting Chief Justice of Gibraltar and a well-known K.C. attracted a good deal of attention by reason of a suggestion from the Bench that the recalcitrant leader had been guilty of contempt and might have been fined. There is no record of such a course ever having been actually adopted, though threats of committal have from time to time been directed against overbold advocates. Charles Gill, who could at times utter extremely irritating and amusing impertinences, was once so threatened, but replied with the greatest coolness: "That raises an interesting point, m'lord, as to your lordship's power to commit a counsel when engaged in a case before your lordship." He then continued his argument without further molestation. Lord Carleton once threatened the great Curran with the loss of his silk gown, receiving the reply: "Well, my lord, His Majesty may take the silk, but he must leave the stuff behind." Curran also survived unharmed a threat of committal by Lord Chancellor Clare.

Mr. A. C. Dann, solicitor, of Chippenham, will be Mayor of Chippenham for the ensuing year. Mr. Dann practises in partnership with his son, Mr. S. W. H. Dann, who is also a member of the Town Council. Both are Freemasons, and have passed through the chair of the Lansdowne Lodge of Unity. Mr. Dann was admitted a solicitor in 1909.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

Use of Capitals.

Sir,—As an Old Rugbeian and once a player of the football, which was born at the School 115 years ago, I was interested in your account of the versatile new President of the Law Society and to note that he was a devotee of "rugby football."

Now, sir, I should probably write "turkey carpet," "china tea" and "prussian blue," though I might hesitate about "Crown derby," "german sausage" and "Early english architecture," but I should have no doubt whatever about "Rugby football" or "French cricket."

This raises the question of capitals in legal documents. A Conveyance which I have before me has the following words in capitals:—"County," "Purchaser," "Deed," "South," "Map" and "Indenture," but the following words are without capitals:—"property," "price," "enclosure," "rood," "buildings" and "pink." What is the guiding line? The modern and better way, no doubt, is to steer clear of capitals where possible, but, if I have ever to put "Rugby football" into a positive covenant, it shall not be deprived of its capital.

B. C.–H.

[The modern tendency in printing is to do away with the use of capital letters except, of course, for proper nouns and words denoting a *direct* connection with a country or town.

"Rugby" football no doubt originated at Rugby and at one time was clearly associated with that school, but now it has lost its local significance and is played all over our empire and on the continent and denotes only a form of football as opposed to "association." The expression "turkey" carpet denotes a combination of colours only, and "french" polish has become a naturalised subject of every country, and so *ad lib.* "China" tea, however, we think has claims to the capital, as it is still a purely local product.

With regard to capitalisation of words in legal documents, it would be helpful to the printer if the legal profession were to draw up general rules on the point.

The style of deed printing adopted by the publishers of this Journal has received the approval of a large number of prominent legal firms and is in general use.

Two principles operate. The first is the avoidance of unnecessary capitals, thus making the document more pleasing to the eye and easier to read. The second is the capitalisation, either wholly or initially, of the material parts, thus allowing those portions to catch the attention of the parties concerned and rendering the document more easy of abstraction.]

The Law Society's Meeting—Mortgagees' Right to Possession.

Sir,—You might have supplemented your note on Mr. Leaver's paper by saying that Sir Charles Morton was in error in stating (p. 794) that "a mortgagee in the country has to take out an originating summons in London." Rule 9A of Ord. LV (Rules of 25th March, 1937) authorises the issue of an originating summons in regard to a mortgage security in other district registries than Liverpool and Manchester, and the action will ordinarily proceed there if the defendant or all the defendants reside or carry on business in the district. The advantage that Liverpool and Manchester solicitors have is that in case of an originating summons issued in one of those registries, that appearance has to be entered there in all cases.

Apart from this, an action to recover possession or for principal or interest may be by specially endorsed writ in the Chancery Division in District Registry and a summons for judgment can be taken out subject to the like evidence as is required in the case of an originating summons.

1st October.

E. I. W.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Distress by Warehouseman.

Q. 3593. A warehouseman has obtained judgment against a private company dealing in antiques, etc., for a sum for warehouse charges, etc., and has failed to obtain satisfaction. The same company, however, has warehoused with the warehouseman certain goods of which, so far as the warehouseman knows, the company is the owner. It may be that the goods in question in fact are the property of a third party, but this is pure surmise. Can the warehouseman levy a distress upon the goods in his own warehouse, and sell them under the execution to satisfy the judgment debt, wholly or in part?

A. As it is proposed to levy a distress upon certain goods, it is assumed that the latter are not the goods in respect of which judgment has been obtained for warehouse charges. The fact that warehouse charges are in arrear does not give a right of distress, as there is no relationship of landlord and tenant between a warehouseman and his customer. The suggested procedure by distress is therefore not available. The goods warehoused with the warehouseman are, however, the goods of the judgment debtor, and, as such, can be seized in execution (under the existing judgment) by the High Bailiff. He should be informed of the whereabouts of the goods, in order that he may seize and sell them in the ordinary course of execution. In the circumstances he may require an indemnity from the judgment creditor, but the warehouseman will probably not object to giving this.

The Companies Act, 1929, s. 264.

Q. 3594. We act for the liquidator of Messrs. A. & Co. Ltd., who have gone into voluntary liquidation. Within three months of the company going into voluntary liquidation the landlords distrained on the premises for rent, and as a result of the distress a sum of £100 was realised. We have written to the landlords giving them notice that the sum of £100 recovered by them is subject to a first charge in respect of the preferential debts of the company. We base our contention upon s. 264 of the Companies Act, 1929. The landlords, however, inform us that they do not agree inasmuch as the amount recovered by them is only in respect of preferential debts concerning a compulsory winding-up and is not affected by a voluntary winding-up. We shall be glad to have your opinion in due course.

A. The landlords' contention is untenable in view of the sub-heading to Pt. V of the Act, viz., that which appears above s. 261:

"(v) Provisions applicable to every Mode of Winding-up." This applies equally to s. 264, and the view of the questioners is correct.

Assent in Fee Simple SUBJECT TO AND WITH THE BENEFIT OF A LEASE WHEN TERM AND REVERSION ARE BOTH VESTED (BUT UNMERGED) IN THE ASSENTING PARTY. . . . . EFFECT.

Q. 3595. In 1896 certain properties were by one lease demised for the term of 60 years to A, who, in 1903, assigned part of the said leasehold property to B at an apportioned yearly rent of £2. In 1916 B purchased the freehold reversion in the apportioned leaseholds purchased by him in 1903, the conveyance providing that the leasehold interest should not merge in the freehold reversion unless and until B signed a written declaration of merger. B died in August, 1925, having by his will made on the day of his death appointed his son and his wife, C and D, his executors and thereby by direct gift gave the said property to his wife D for her life and after her death between his ten children in equal shares, the said will being proved by C and D in February, 1926. The tenant for life, wife D, made her will in September, 1926, and died in that month. She appointed her daughter E executrix and E proved her said will in October, 1926. On the 11th September, 1933, E, as personal representative of D and by the direction of the ten children of B and D (thereby testified), executed a vesting assent in favour of three trustees of the said property "in fee simple subject to and with the benefit so far as affected thereby of the said lease" upon trust for sale. By an assignment and conveyance dated the 12th September, 1933 (subsequent to the said vesting assent), the trustees, with the consent and by the direction of the said ten children (thereby testified), assigned the said property to a purchaser, F, for the residue of the said term of 60 years, subject to the said apportioned rent and to the performance and observance of the lessee's covenants and the conditions contained in the said lease so far as the same related to the premises thereby assigned, and also by the like consent and direction conveyed the same premises to F in fee simple subject to and with the benefit of the said lease so far as the premises thereby conveyed were subject thereto or affected thereby, and the purchaser thereby declared that the term of years granted by the said lease should forthwith merge and be extinguished in the fee simple. The purchaser now desires to mortgage the said premises, but the mortgagee contends that the said vesting assent passed the freehold reversion only and did not pass the leasehold interest, arguing that by analogy to a conveyance of freeholds subject to a lease by which conveyance no legal estate in the leasehold interest vested in the lessee passes, so by the wording of the vesting assent the leasehold interest did not pass in this case. The purchaser claims that, as the legal estates in both the freehold and the term of years were vested in the personal representative of D, the words of the vesting assent, namely, "in fee simple subject to and with the benefit so far as affected thereby of the said lease," pass both freehold and leasehold interests. Please advise as to the effect of the said vesting assent and as to any rectification thereof which may be necessary.

A. We think that the mortgagee's contention is justified. To set matters right it seems necessary for the personal representative of the deceased tenant for life (E) to *assign* the term with the consent of the ten children to F (the intending mortgagor) so as to effect a merger. Suitable recitals must be introduced to explain the position. We suggest that an assignment is necessary because F is not entitled by "devise bequest devolution or appropriation or otherwise (*ejusdem generis*)." See A.E.A., 1925, s. 36 (1). It may be, however, that an assent would be effective in view of S.L.A., 1925, s. 8 (1).

Purchase in Breach of Trust—IMPLIED TRUST FOR SALE—DURATION—PROTECTION OF PURCHASER UNDER L.P.A., 1925, s. 23.

Q. 3596. By his will dated 25th March, 1848, T gave all his real and personal estate unto X and Y, his executors and trustees, on trust for his wife for life and thereafter for his two children, A and B, absolutely. After the death of T in

1848, B, a spinster, conveyed her remainder to P and Q on trust to pay the income during her life to such persons as she should appoint, and in default of appointment to herself for her sole and separate use, then to such of her children as she should by deed or will appoint, and in default of appointment to her children. Such settlement contained no power of sale and no power to purchase land. In 1868, X died, and in 1874, T's wife died, and it was agreed by A and B that the property to which they then became entitled under T's will should remain as realty and by an indenture dated 24th May, 1892, Y, the sole surviving trustee of T, and B conveyed certain property as representing B's share to P and Q, the trustees of B's settlement. Part of B's interest under T's will consisted of cash, and in 1897 certain cottages were purchased out of the cash by P and Q for the trust. The conveyance of these cottages stated that the purchase price was paid "out of monies belonging to P and Q on a joint account," and the cottages were conveyed unto P and Q "to hold the same unto and to the use of P and Q in fee simple absolutely." There was no mention of B's settlement. P died in 1912 and Q died in 1914, having appointed M and N his executors and trustees. M died in 1919. B died in 1917, having left her property by will to her son, C. Z has now agreed to buy the cottages conveyed by the indenture of 1897 from C, who states that he has been receiving the rents and profits for over twelve years. N, the sole surviving trustee of Q, one of the trustees of B's settlement, has been ignorant of the fact that he is a trustee by representation of B's settlement. Having regard to the fact that B's settlement contained no power to buy land and that the conveyance of 1897 of the cottages contains no reference to B's settlement, from whom should a conveyance by Z, the purchaser, be taken? If the title is not in order, what is required to be done?

A. The purchase by P and Q in breach of trust subjected the property in their hands to an implied trust for sale to remedy the breach. That being so, the transitional provisions of L.P.A., 1925, were powerless to vest the legal estate in C (L.P.A., 1925, Sched. I, Pt. II, para. 3, and note the words "not vested in trustees for sale"). Unless, therefore, the purchaser is willing to take title from C as having been in possession for upwards of twelve years, which we do not recommend, he should take title under the trust for sale and will receive the protection of L.P.A., 1925, s. 23. This will, of course, involve the appointment of an additional trustee to enable a valid receipt to be given for the purchase money.

Lease to Voluntary Hospital.

Q. 3597. (1) Can the trustees of a voluntary hospital take a lease to them of property at a rack rent of £40 a year containing covenants usually contained in an ordinary lease and an option to have a further term of five years and an option to purchase?

(2) If there is no objection to such lease, what formalities (if any) are necessary in addition to recording the deed with the Charity Commissioners?

A. (1) The powers of the trustees as regards taking a lease depend upon the constitution of the hospital. If the foundation deed is silent on the point, there is no objection to taking a lease on the terms mentioned.

(2) There are no special formalities, unless there is a scheme, under the authority of the Charity Commissioners, dealing with the acquisition of leasehold land by the hospital.

Conversion of Electric Current.

Q. 3598. Is there any provision in statute law to compel an electric light undertaking converting its current from D.C. to A.C. to compensate its users for the cost of the conversion or alteration of electrical apparatus in use to make such apparatus suitable to the changed type of current?

A. Under the Electric Lighting (Clauses) Act, 1899, s. 27 (5), the most that the undertakers can demand is that the premises and apparatus therein are in good order and condition. Once the undertakers have supplied D.C. they are accordingly bound to continue the supply. If the apparatus is rendered unfit to take the supply, by reason of conversion to A.C., this is not due to any action or omission of the consumer. The liability for altering the apparatus must therefore be assumed by the undertakers, and the consumer is not chargeable with the cost.

Books Received.

Accountancy. The Journal of Incorporated Accountants. Vol. L (Vol. I, New Series), No. 542. October, 1938. London: The Society of Incorporated Accountants and Auditors. Price 1s.

The Death Duties. A Synopsis in Chart Form. Compiled by Frank Rowlands, F.C.A. 1938. London: Waterlow & Sons, Ltd. 1s. 6d. net.

The Common Sense of Arbitrations. By David M. Lawrance, B.Sc., Barrister-at-Law. 1938. Royal 8vo. pp. 28. London: The Institute of Arbitrators. Price 2s.

The Companies' Diary and Agenda Book, 1939. Edited by Herbert W. Jordan. Forty-sixth Year of Publication. 1938. London: Jordan & Sons, Ltd. 4s. net.

Obituary.

Sir Duncan Kerly, K.C.

Sir Duncan Mackenzie Kerly, K.C., of Paper Buildings, Temple, E.C., died at his home at Purley on Wednesday, 5th October, at the age of seventy-five. Educated at Merchant Taylors School and St. John's College, Cambridge, he was called to the Bar by the Inner Temple in 1887 and went the South Eastern Circuit. He took silk in 1914, and in 1915 he succeeded Lord Merrivale as chairman of the Board of Referees for Excess Profits Duty. He was knighted in 1921. Sir Duncan was the author of a book on the law of trade marks and of a short history of equity.

Sir Francis Kearney.

Sir Francis Edgar Kearney, LL.D., Barrister-at-Law, of Garden Court, Temple, died at Surbiton on Thursday, 29th September, at the age of sixty-eight. He was educated at Trinity College, Dublin, and in 1891 he was admitted a solicitor in Ireland. He was Clerk of the Crown and Peace for Limerick City and County from 1918 to 1926. He then read for the English Bar, and was called by Gray's Inn in 1929.

Mr. W. P. Davies.

Mr. Walter Pierce Davies, J.P., solicitor, senior partner in the firm of Messrs. W. P. Davies & Son, of Shepherd's Bush, W., and Stamford Brook, W., died at Seaford on Wednesday, 28th September, at the age of sixty-four. Mr. Davies was admitted a solicitor in 1900.

Mr. N. A. Heywood.

Mr. Nathaniel Arthur Heywood, solicitor, a partner in the firm of Messrs. Heywood & Ram, of the Outer Temple, W.C., died at Wimbledon on Saturday, 1st October. Mr. Heywood was admitted a solicitor in 1893.

Mr. W. M. Willcocks.

Mr. Walter Morgan Willcocks, J.P., retired solicitor, late senior partner in the firm of Messrs. Taylor, Willcocks and Co., of the Strand, W.C., and Lavender Hill, S.W., died at Surbiton on Sunday, 2nd October, at the age of seventy-eight. Mr. Willcocks, who was admitted a solicitor in 1885, had been a member of the Surrey County Council since 1913.

THE LAW SOCIETY AT MANCHESTER.

ANNUAL PROVINCIAL MEETING.

[By our Special Representative.]

(*Continued from page* 800.)

Mr. Fredk. G. Jackson (Leeds) read the following paper :—

The Increase of Rent and Mortgage Interest (Restrictions) Act, 1938.

In a Paper which I had the honour of reading before the Society's Provincial Meeting, at Oxford, in 1933, upon the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, I ventured to express a doubt whether, despite the emphatic and unusual way in which the duration of the Act was stated—"shall continue in force until the twenty-fourth day of June, 1938, and no longer"—the measure would cease to operate at Midsummer, 1938.

That doubt has proved to be only too well founded, for we are now faced with another of what are popularly termed "the Rent Acts"—the fifth time, without counting more or less automatic extensions by Expiring Laws Continuance Acts, that emergency provisions, intended to have lapsed nearly twenty years ago, have been renewed.

The present Act must be regarded, to some extent, as a retrograde measure, for the weighting of the scales of justice against property owners—possibly warrantable during the World War and the disturbed period which followed—so far from being relaxed, is in some respects enhanced, and the date when the law of landlord and tenant shall be once again upon its ordinary footing recedes still further.

It will be recalled that the Act of 1933 divided houses which had, until then, been subject to restrictive legislation into three classes, popularly known as Class A, Class B and Class C. The first of these was houses of which, on 1st April, 1931 (6th April, 1931, in the administrative County of London), both the annual amount of the recoverable rent and the rateable value exceeded £45 in the Metropolitan Police Area or exceeded £35 elsewhere in England or Wales; the second, houses which had a recoverable rent or rateable value not exceeding £45 in London (£35 elsewhere) but had a rateable value exceeding £20 in London or £13 elsewhere; and the third, houses which had a rateable value not exceeding £20 in London or £13 elsewhere.

By the Act of 1933, Class A houses became decontrolled—provided the landlord took the necessary steps to that end—at Michaelmas of that year; Class B houses remained in the same position as before, the tenants continuing to enjoy the protection of the Act, though the houses became decontrolled upon the tenants leaving, save where the reason for that was an order for possession made because the rent was in arrear; Class C houses not merely remained within the Act, but continued to do so despite the voluntary evacuation of them by the tenants.

Class B Houses.

When, therefore, the Act of 1933 expired, but the principal Act was renewed, it might have been expected that Class B houses would be moved into the category which, under the expiring Act, had comprised Class A houses and that Class C houses would be put in the same position as Class B houses had occupied under it.

Not so, however, for only a portion—probably about one-half—of them become, subject to the provisions mentioned below, decontrolled and the remainder, instead of being put into Class A, go into Class C, so that in future the fact of their tenants leaving voluntarily will not advantage the landlord at all.

It is convenient to use the terms, Class A, Class B and Class C, but it should be noted that, in future, the question whether a house is controlled will not depend at all upon the amount of its rent but will be governed primarily by the amount of its rateable value upon the dates already stated, so that, subject to what follows, all houses will be within the Act if their rateable value did not then exceed in the Metropolitan Area (including the City of London) £35, or did not exceed £20 elsewhere.

Decontrol.

Thus, it will be seen that the only general addition to the number of decontrolled houses made by the Act—and this, we shall see, is subject to some exception—is those houses which, on the date just mentioned, had, if in London, a rateable value exceeding £35 but not exceeding £45 or, if elsewhere, one exceeding £20, but not exceeding £35.

This decontrol is not, however, automatic, but, as was the case five years ago when Class A houses became generally decontrolled, only operates if the landlord takes steps to that end.

Therefore, a landlord wishing to make such a house decontrolled must give notice to the tenant. The notice must be in writing, must be of at least one month's duration and cannot take effect until Michaelmas Day, 1938, so that a landlord who has not already given notice will not be able to resume his full rights till about 31st October.

If the landlord merely desires to get possession, the notice will be in much the same form as an ordinary notice to quit, requiring the tenant to give up possession on the date named in it. If, however, he is not anxious about possession, but thinks that he should have a better return from the property, then, after the requirement for possession, the notice must add something like this: unless, on or before such date, new terms of tenancy have been agreed upon.

If the notice is in the latter form, there is no obligation upon the landlord to state his proposals for the new terms, but it will be a great saving of time and trouble to do so either in the notice or by a separate document accompanying it.

As regards possession, if through any cause, when the notice expires, the landlord refrains from seeking to enforce it, his position will not be prejudiced. He may continue to accept rent or mesne profits indefinitely, without, when he does seek to enforce possession, having to give a fresh notice, a provision which might, with advantage to both landlord and tenant, be applied to ordinary tenancies, especially small ones.

As respects new terms of tenancy, if—as will happen in most cases—the tenant ignores the notice, then a new tenancy on such terms will be created, provided that the notice has so informed the tenant.

If the tenant desires to stay on, but upon terms differing from those suggested by the landlord, the latter must consider whether it will pay him better to come to some arrangement with the former or to enforce possession.

Before we pass away from the question of possession, it should be noticed that—to some extent at any rate—the new Act clears up a doubt which arose under the 1933 one, but which, I believe, was never definitely resolved, viz., how far does the Landlord and Tenant Act, 1927, apply where a tenant claims the protection of the Rent Acts?

It is now stated that, where a notice in the form just mentioned has been given, the provisions of the Landlord and Tenant Act, 1927, shall apply in respect of the premises as if they had been held under a lease (as defined by that Act) terminated by such notice; and if, before the expiration of the notice, either the tenant served upon the landlord a notice requiring a new lease or the landlord has notified the tenant that he is willing and able to grant to the tenant, or obtain the grant to him of, a renewal of the tenancy, the intimation in the landlord's first notice that, by retaining possession, the tenant will be deemed to have accepted the landlord's new terms does not apply.

Obviously, this provision is only intended to apply to the case of what is popularly known as "a house and shop," but it is not too well framed and it will not be surprising to find some enterprising tenant of premises used purely as a dwelling-house asking the Court to hold that it applies to him.

There is one important exception to what has been said about decontrol, though, in practice, it will have little effect outside London and a few other large towns.

I refer to what may be paradoxically called a large small house, part of which is sub-let or is vacant and to let as a separate dwelling. Here, decontrol does not become possible at present, although the rateable value is such that, was the house let as a whole, it could be made decontrolled.

If, however, the landlord comes into possession—otherwise than by reason of an order for possession, made on account of arrears of rent—the part thitherto occupied by the tenant will become decontrolled, but the part occupied by the sub-tenant will remain controlled so long as he fulfils the law's requirements.

It must be confessed, however, that here again we seem to have an example of obscure drafting, and it may be that consideration by the Court will be needed before one can say, positively, how the parties stand.

Registration.

We pass on to the case of those houses which have become decontrolled under the former Acts, but which, by reason of their low rateable value, could not do so under the present Act.

Just as, in the case of Class C houses which had become decontrolled prior to the passing of the 1933 Act, so, with regard to Class B houses now, the landlord, if wishing to claim that they have become decontrolled, must register them with the local authority. As before, registration is no proof of decontrol and it will still be open to the tenant to assert that control still stands, in which case the Court must decide who is right so that registration seems a work of supererogation.

It should be noted, however, that there are differences between registration under the 1933 Act and under the present one.

Formerly, if a landlord failed to register within three months from the passing of the Act, he could, at any time, apply to the county court for leave to register despite lapse of time.

Now, application for such leave must be made within one year from the passing of the Act, i.e., before 26th May, 1939.

Furthermore, it was left to the discretion of each county court judge to say what was a reasonable excuse for failure to register. Now the only excuses which will be deemed reasonable are: (*a*) illness of the landlord; (*b*) absence from the United Kingdom; (*c*) some other similar cause; (*d*) some cause beyond his control.

The phrase "some other similar cause" is vague and it is difficult to say what sort of excuse would be regarded as coming within it. Are we to take it that Parliament suggests, but delicately refrains from saying, that non-registration shall be excused if it was due to the fact that, when registration should have been made, the landlord was an involuntary inmate of, say, Dartmoor?

The words "some cause beyond his control" are, also, not easy of construction, but a possible reading is that the landlord had foolishly delayed registration until the last hour of the last day and that, while on his way to the local authority's office, the vehicle in which he was travelling broke down and he did not arrive until after closing time.

Despite the maxim that "Ignorance of the law does not excuse," some county court judges have permitted late registration to a landlord who stated that he did not know that he had to register, but this will no longer be admissible.

Applications for leave to register, despite lapse of time, under the 1933 Act are no longer possible, for, by the new Act, the last day for same being granted was fixed for 26th August.

An important difference as to the effect of excuse-certificates under the previous Act and the present one should be noted.

Under the former, so soon as registration consequent upon such certificate had been made, decontrol operated forthwith. Now, if at the date of registration the landlord is not in possession of the house, it does not become decontrolled until he is in possession or grants such a lease as is mentioned in the principal Act.

As before, if, at the pertinent date, the house was vacant or in the owner's occupation, registration is unnecessary.

Standard Rent.

A small amendment is made as to this, but it only affects cases where a house is let off in two or more portions—as distinct from subletting—and each portion in question is within the principal Act. Hitherto, in such a case each portion has had a standard rent based upon what was being paid in respect of it on the third day of August, 1914—not the first day of that month, as a slip in the present Act states—or, if it was then empty, what was being paid for rent on the occasion of the last letting prior to that date or, if it had never been let before that date, the rent payable upon the first letting after then.

Now, in all such cases, the standard rent will be arrived at by apportioning the standard rent of the house as a whole.

Rent Books.

A recent (1936) Housing Act settled a long-standing question between landlord and tenant, as to who should provide a rent book, by making it the duty of the landlord to do so in the case of all houses coming within its purview.

The present Act extends this provision to all houses coming within the principal Act, as amended by this and other Statutes, so that, e.g., it will sometimes apply to a "house and shop." It runs from 26th August, 1938.

Failure to comply with the provision renders the landlord liable to a fine not exceeding £10, and it is important to note that each week of omission is a separate offence, so that, where the neglect has lasted ten weeks, the Court, if thinking fit, may impose a fine of £100. Fortunately the power is unlikely, in practice, to be exercised to its full extent.

It should be noted that every rent book (or document in lieu of same) must contain a copy of the pertinent provisions of the Regulations under the Act.

Here, too, non-compliance entails a maximum penalty of £10, but, unlike the previous one, this is non-cumulative, except in the sense that if a landlord persisted in refusing to observe the law he could be summoned every week.

Burden of Proof.

Prior to the 1933 Act, where any question arose as to whether in fact a house was controlled, it was the general practice to require the landlord to prove that control existed.

In *White* v. *Bembridge* [1935] 1 K.B. 244, and *Heginbottam* v. *Watts* [1936] 2 K.B. 6, the 1933 Act was interpreted as having reversed this, so that the tenant had, if he could, to show that the house was decontrolled.

Now, if any question arises whether a house, the subject of proceedings, is within the principal Acts, it will be assumed that the Acts apply unless the contrary is shown.

Rates.

In one of the few House of Lords cases (*Nicholson* v. *Jackson* (1921), 37 T.L.R. 887) on the Rent Acts, it was held that, in raising rent consequent upon a rise in the rates, payable by the landlord, only the increase in the net rates, not that in the gross rates, could be added to the standard rent. In other words, in each case the compounding allowance must be deducted in making the calculation.

Very reasonably, therefore, in arriving at the net rent, upon which percentage increases were to be based, a landlord deducted from the gross rent the net amount of the rates at the date as at which the gross rent was computed.

Recently, however, the House of Lords, in *Strood Estates Co. Limited* v. *Gregory* [1938] A.C. 118, decided that such deduction must be related to the gross rates.

Obviously this meant that the landlord was in the position of: "Heads, I lose; tails, you win." The new Act rectifies it by overruling the earlier decision and, in effect, confirming the later one.

The alteration does not operate, however, until demand is made for rates commencing on or after 1st October, 1938.

Notice of Increase.

If, as a result of this amendment, a landlord finds himself entitled to raise the rent of a house, he must, to validate a rise, give a fresh notice of increase.

The form prescribed is at least as voluminous as the very bulky one required under the Act of 1933.

A useful provision of the new Act is that, where a landlord has refrained from raising rent to a sitting tenant, but feels it perfectly reasonable to do so upon a change of tenancy, he need no longer wait until the new tenant is in occupation—and thereby lose a month's increase—before giving notice of increase, but may serve it while the new tenant is still merely a prospective one. Here, too, a form of notice is prescribed.

Alternative Accommodation.

The only change under this head is that alternative accommodation, though reasonably equivalent to that in the house of which possession is sought, shall not be deemed suitable if the entry of the tenant and his family into the house in question would constitute overcrowding.

Thus it will happen occasionally that a landlord seeking possession will have to show that there is available for the tenant accommodation not merely so good as that which he has, but somewhat better.

One imagines that, in these circumstances, there will be some difficulty in finding alternative accommodation which is reasonably equivalent as regards rent to what the tenant already has, so that, however reluctant to do so, the landlord of a tenant who is permitting overcrowding will either have to prosecute him or ask the local authority to take that course.

Service of Documents.

In some cases a tenant has been hampered in regard to any proceedings which he wished to take under the Acts

because he did not know the landlord's full name, or, if he did know it, did not know the landlord's address.

To meet this difficulty, it is now provided that any document authorised or required by the principal Acts to be served by the tenant of a dwelling-house upon the landlord thereof shall be deemed to be duly served if it is served upon any agent of the landlord named as such in the rent book or other similar document or upon the person who receives the rent of the dwelling-house.

Furthermore, if for the purpose of any proceedings brought or intended to be brought under the principal Acts or the 1933 Act (including a prosecution for an offence under any of those Acts), any person serves upon any such agent or person receiving the rent as aforesaid a notice in writing requiring him to disclose the full name and place of abode or place of business of the landlord, it shall be the duty of the agent or person receiving the rent forthwith to comply with such notice, and, if he fails or refuses to do so, he shall be liable on summary conviction to a fine not exceeding £5, unless he shows to the satisfaction of the Court that he did not know, and could not with reasonable diligence have ascertained, such of the facts required by the notice to be disclosed as were not disclosed by him.

The saving clause will meet the case where, for example, the agent does not pay the balance of rents direct to the landlord, but to a bank and the latter declines to furnish the agent with the landlord's address.

Overpaid Rent.

The provisions of the Act with regard to overpayments of rent or mortgage interest are an excellent illustration of how the "chopping and changing" policy of Parliament often makes it specially difficult for a solicitor to advise his clients how they stand.

In 1917, the Courts (Emergency Powers) Act, overruling a decision that such payments were not recoverable if made under mistake of law—it must have often been a nice question whether they were so made or made under mistake of fact—provided that they should be recoverable within six months from having been made.

Then, when we had got nicely into the way of advising clients that—contrary to what we had had to tell them before—excess-rent or excess-interest was recoverable, though only for six months back, the Rent and Mortgage Interest Act of 1920 swept away the time limit, though, possibly, the Statute of Limitations would have barred a claim in respect of an overpayment more than six years old.

Another three years went by and we were back at the six months' limit. Now, any landlord or mortgagee who thought that the lapse of fifteen years meant that the provision was to be on the Statute Book so long as the Rent Acts were is disillusioned.

His tenant or borrower has now the space of two years—as regards excess-payments made after 26th November, 1937—within which to say: "Mr. Landlord (or Mr. Mortgagee) I will trouble you to hand back the little present which I thoughtlessly made you."

It should be noted that, upon the expiration of the Acts—if and when that ever happens—the careless (or ignorant) tenant or mortgagee will still be entitled to recover, subject to the two years' limit.

Mortgages.

A further and more important point which should not escape attention is that, as was the case with regard to houses decontrolled by the 1933 Act, so with respect to houses decontrolled by this one, control of mortgages upon such houses will subsist for a period of six months from the passing of the Act, viz., till 26th November, 1938.

Balance of Hardship.

Landlords who have been waiting for occupation of their own property, but could not secure it because they had bought after 11th July, 1931, and could not show that suitable alternative accommodation was available for the tenant, will now be able to get it if they bought before 7th December, 1937, and the Court is satisfied that greater hardship would be caused by refusing an order for possession than by making one.

The same applies, of course, where possession is not sought for the landlord himself, but for his father or mother, or his son or daughter aged eighteen or upwards.

Duration of Act.

The Act is expressed to remain in force till Midsummer, 1942, but only a very sanguine—one might almost say, credulous—person will suppose that, twenty-four years after the conclusion of the conflict which gave rise to emergency legislation, this relic of it will be relegated to limbo.

Mr. J. E. Allen-Jones, M.A. (Oxon) (Manchester), read the following paper:—

Legal Aid for the Poor.

The object of this paper is to consider the various forms of legal aid which are available for poor people in this country in both civil and criminal procedure and to compare our methods with those in use elsewhere.

Criminal Procedure.

Free legal aid in England and Wales was provided by the Poor Prisoners' Defence Act, 1903, for poor persons committed for trial. The Act, however, did not apply until the prisoner had been committed for trial, and he had to disclose his defence before he was entitled to legal assistance. A committee under The Rt. Hon. Viscount Finlay (then Mr. Justice Finlay) was set up by the Government in 1925 to enquire into the working of this Act. Its report was published in March, 1926, and led eventually to the Poor Prisoners' Defence Act, 1930. The 1930 Act has enabled a poor prisoner to obtain legal aid in the form of the service of a solicitor in proceedings before courts of summary jurisdiction. The costs of the defence of such persons is defrayed out of local funds. A solicitor may obtain fees of between three and six guineas. Junior counsel receives from £3 5s. 6d. to £11 and leading counsel from £5 10s. to £16 5s. Counsel may also be granted a travelling allowance if he comes from a distance exceeding 20 miles. The 1930 Act also provides that the defence need not be disclosed until the trial, thus remedying a defect of the 1903 Act which sometimes led to hardship. The Acts do not define the meaning of the words "Poor Person," and it is left to the discretion of the court or justices to decide whether the means of the prisoner are such that he should be entitled to legal aid.

It was suggested to The Rt. Hon. Viscount Finlay's (then Mr. Justice Finlay) commission that a Public Defender's Department should be formed. This suggestion was rejected in the following words: "Any such scheme would, we are satisfied, be exceedingly expensive and difficult to work. Evidence was greatly against so far-reaching a proposal. We are clearly of opinion that no case at all has been made out, because, among many reasons, the cases to be dealt with are too few to justify it."

In addition to the legal aid provided by these Defence Acts, a poor prisoner can also avail himself of what is called a "Dock Brief." This entitles him on arraignment, on the payment of a fee of £1 3s. 6d., to the services of any counsel who is robed and in court.

It would seem to-day on paper that all is well for the poor prisoner. The law has recognised his hardship and has provided the necessary remedy; yet in actual practice this has not turned out to be the case. There are in England and Wales 1,044 courts of summary jurisdiction. In 1935, magistrates sitting in such courts found defendants guilty in over 750,000 cases and sent over 19,500 persons to prison for various offences. Yet in that year the 1,044 courts granted only 335 legal aid certificates in respect of cases heard before them (Criminal Statistics, England and Wales, 1935, p. 142). During the four years 1932–1935, 1,064 certificates were granted by justices in respect of cases tried by them—an average per court of one every four years.

On the other hand, in proceedings before examining justices with a view to the committal of the prisoner for trial at assizes or quarter sessions, the justices in 1935 granted 486 legal aid certificates, and on committal of the prisoner for trial they granted 1,090 defence certificates.

These figures certainly suggest that the justices are well aware of the value of legal aid, but are disinclined to grant it in respect of cases to be heard before themselves.

Civil Procedure.

As regards civil procedure, very great assistance has been rendered by the formation of what is known as the "Poor Persons Procedure," which was established by statute and first started in April, 1926. Before that date there was no system of legal aid in civil cases on any reasonable scale.

Poor Persons Procedure.

This procedure is under the direction of The Law Society and the Provincial Law Societies, each of whom have appointed committees whose members must be approved by the Lord Chancellor. To-day, in England and Wales, there are 92 poor persons committees. These committees deal with all poor persons' cases (except bankruptcy and criminal proceedings) which are such as should be brought in the High Court. Over 70 per cent. of such cases are in respect of divorce proceedings.

If anyone wishes to obtain a poor person's certificate, he must fill in a form giving details of his income and his savings

and particulars of his case, and declare that the contents are true. This form is left with the secretary and is then considered by members of the local committee. To be admitted as a poor person the committee must consider that on the evidence available the applicant has a reasonable chance of success, and that he or she is not earning more than £2 a week (in exceptional cases £1) and does not possess belongings exceeding £50 to £100. If a certificate is granted, a poor person has to pay a deposit to cover the actual disbursements of the case. When considering the application, the committee fix the amount of the initial deposit to be paid, usually £3 or £5. The figure is, of course, only an estimate and sometimes it becomes necessary during the course of proceedings for the poor person to be called upon to make a further deposit. The expenses to be paid out of the deposit include such items as witnesses' expenses, postages, forms and commissioners' fees, etc. Sometimes there are additional expenses for service, either personal or substituted service, by advertisement. Office expenses are not regarded as out-of-pockets. Any surplus out of the deposit is returned to the poor person at the end of the case. Incidentally many poor persons, when their case is finished, either remove from their address or fail to call for the balance due to them, when requested to do so. As a result many committees have large sums in hand made up of these unclaimed balances. The Manchester committee, for example, has at present as much as £500.

Apparently, without the assistance of a further Act of Parliament, it is impossible to use these unclaimed balances for any purpose at all. There have been cases where, many years after a case was finished, a poor person has called for his unclaimed balance. It seems unfortunate, however, that provision was not made to enable unclaimed money to be used for the purposes of the poor persons procedure. It could then have formed a fund to assist the very poorest in raising the necessary deposit.

It is to be noted that the certificate is granted by the committee and not by the courts. There is no appeal to the courts from the determination of the committee. A poor person, moreover, may not necessarily learn the reason why his application has been turned down. Some members of committee see that the poor person is furnished with the explanation; others are content that he should only know that his application has been unsuccessful.

Once a certificate is granted, no court fees are payable. Each committee has a rota of solicitors and counsel to whom cases are referred. It is quite optional to join this rota, though suggestions have been made from time to time that every solicitor should be compelled to take at least one case per year. In London, out of roughly 5,400 solicitors, only 1,800 are on the rota. This, of course, makes the work of rota solicitors much greater than it need be if every solicitor assisted. The Matrimonial Causes Act has added to the difficulty very considerably. The following example shows the way in which the new Act has increased the committee's work. The Manchester committee in January, 1937, received 33 applications, and for the whole of 1937 received 333 applications. Yet in January, 1938, the committee supplied 461 would-be applicants with forms of application of which during that month alone 233 were returned. At least 80 per cent. of the divorce applications are in respect of desertion. It is, of course, difficult to say as yet whether this increase is likely to be of a permanent nature. While it seems improbable that applications can continue to come in such numbers, it seems equally certain that the number of applicants will always remain at a higher figure than before the new Act came into being. In London, 1,638 applications were received during the month of January, but in July only 409 were received, and it therefore looks as though all committees may anticipate the number of applications received being considerably reduced. It is estimated that by January of next year the number of applications coming in will be about 25 per cent. above the number of applications which were received prior to the Act.

In contrast to legal aid in criminal cases, where both solicitor and counsel receive a fee, counsel under the poor persons procedure never receives any payment at all. As regards the solicitor, except in very special circumstances, he receives nothing except out-of-pocket expenses. Occasionally the opposing side may be ordered to pay the solicitor's profit costs, but not fees to counsel or court fees. Occasionally, too, a solicitor may obtain an order from the judge allowing him profit costs from the poor person, provided that they do not amount to more than one-quarter of what the poor person receives.

Since 1926, the number of applications under this procedure has tended to increase annually. For example, London in 1930 had roughly 2,000 applications and granted 900 certificates. In 1936 there were 2,700 applications and 1,300 certificates were granted. Manchester in 1930 had 230 applications and granted 113 certificates. In 1936 there were 340 applications and 131 certificates were issued. Incidentially, in 1936 Manchester had the second largest number of cases in the provinces. The great majority of cases were matrimonial, but a sum of £1,807 was recovered for poor persons. The secretary interviewed 3,890 persons during that year.

The secretaries of some of the different committees receive a small allowance for their services. In 1926 the government paid £3,000 towards administration expenses. In 1936 it paid £7,000 and it has agreed to contribute up to £10,000 for the year ending 31st March 1939. The vast increase of applications this year suggest that in every large town there should be a permanent paid secretary, who could devote all his time to this work and who should have a full-time typist to assist him. Whether or not the procedure can be worked satisfactorily despite the enormous increase of applications would then depend primarily on the number of solicitors who were prepared to assist on the procedure's rota. There is no doubt also that the position would be much improved if full divorce jurisdiction was extended to district registries and assize towns. The Law Society is to be congratulated on its endeavours to bring about this reform, and it is to be hoped that success in this direction will eventually be achieved.

An interesting extension of the procedure has been made recently at York, where solicitors on the rota have agreed to take divorce cases for the sum of £30 if applicants are not poor persons but cannot afford to pay the full fees.

The Poor Man's Lawyer Association.

Apart from divorce proceedings, the cases in which poor people tend to be concerned are those which are heard in the county court and the police court. Many people outside the legal profession are not aware that the police court, despite its name, hears many cases which have nothing to do with criminal proceedings, e.g., affiliation proceedings and proceedings for separation and maintenance orders. Poor people, moreover, frequently require to be advised as to their legal rights, although there may often be no question of litigation. It is to deal with these smaller cases that there exists the voluntary association known as "The Poor Man's Lawyer." This association was first started in 1890 in East London at the Mansfield House University Settlement. It was later taken up by other settlements such as those at Oxford House, Bethnal Green and at Toynbee Hall.

These centres supply free legal advice on certain evenings each week, the advice being given voluntarily either by solicitors or barristers. London to-day has 49 branches, all of which are under the jurisdiction of a voluntary body known as the Bentham committee. The committee has a rota of solicitors to whom it refers cases sent to it from the numerous branches. In certain cases the Bentham committee finds the necessary money required for payment of court fees and out-of-pockets. Neither solicitors nor counsel receive any payment from poor persons. If solicitors obtain costs from the opposing side they must pass them on to the committee after deducting their out-of pocket expenses. Counsel's brief in such cases is either marked "no fee," or, if marked with a fee, counsel makes a donation of that amount to the Bentham committee. Solicitors or barristers advise at the branches, but any case which needs taking up by a solicitor is referred to the Bentham committee. It is there examined further by three solicitors and is then, if necessary, forwarded on to one of the rota solicitors. This careful preliminary examination of cases prevents any cases being referred to the rota unnecessarily. As a result, despite the large number of branches giving advice, only about 300 such cases are referred annually to the rota. This contrasts strongly with the number of cases referred to the rota in centres outside London. For example, Manchester with only five centres (as contrasted with London's 49 branches) in 1936 out of 3,400 applicants referred 620 to the rota. In contrast again to this, Birmingham in 1936 out of 3,500 applicants referred 300 to her rota.

The Poor Man's Lawyer, in contrast to the Poor Persons Procedure, is only a voluntary organisation. Except for the Bentham committee which supervises all London branches, there is no central authority and no annual meetings are held to enable its members to compare the workings of one centre with another. Consequently, as might be expected, there is much difference in method between one centre and another. The Bentham committee's rules state that, not only shall no charge be made against the poor persons, but the costs obtained from the opposing side shall be passed on to the committee. The Birmingham Poor Man's Lawyer does not allow a rota solicitor to charge a poor person, but

the solicitor can retain any profit costs obtained from the opposing side. The Manchester Poor Man's Lawyer Association in contrast permits solicitors to retain any costs recovered and allows them, in their discretion, to charge the poor person. At Hull, solicitors retain two-thirds of costs recovered, plus disbursements, and pass the remainder over to their association. At Halifax, rota solicitors charge only a nominal fee. Most centres appear to have a rota of solicitors. An exception to this is at Bristol, where there is no rota and where apparently about 15 per cent. of the applicants fail to obtain any satisfaction as they cannot afford to instruct a solicitor to take up the case on their behalf. Toynbee Hall, though affiliated to the Bentham committee, has no rota. It retains a single firm of solicitors for a retaining fee of 50 guineas. All cases needing a solicitor are referred to this firm. They make no charge against the poor person, but retain all profit costs.

As regards advice given at the branches, at most centres only barristers or solicitors are allowed to advise. Manchester used to permit solicitors' clerks to give advice, but this is no longer allowed. According to the Halifax rules, advice can only be given by solicitors of more than ten years' standing. The Bentham committee and the Birmingham association discourage the writing of letters by advisers on behalf of applicants. The Manchester association, on the other hand, encourages this. Typewriters have been provided through the kind assistance of the Manchester Law Society and one branch at least has a rota of typists to give assistance. Whereas both the Bentham committee and the Birmingham association see that all cases are considered by a solicitor in addition to the advising solicitor before being sent to the rota, Manchester leaves it entirely to the advising solicitor to decide whether or not a rota solicitor is required.

But while it would certainly be advisable to have a co-ordinated policy on all the points of difference, such points are after all only minor matters. What is of vital importance is the fact that there are to-day so few towns with a Poor Man's Lawyer Association. No one can deny that in these towns where there is a Poor Man's Lawyer it is always in tremendous demand. Manchester in 1936 advised over 3,400 applicants. So, too, did Birmingham. Liverpool advised over 4,400. Yet investigation has shown that only the following centres outside London have a Poor Man's Lawyer Association organised under the auspices of the local Law Society—Birmingham, Brighton, Bristol, Chester, Chesterfield, Halifax, Hull, Liverpool, Manchester, Scarborough, Southend and Sheffield. Sussex also has a Poor Man's Lawyer centre.

In England and Wales, according to the 1931 census, there were 113 towns with a population exceeding 50,000. Yet only 12 towns outside London have a Poor Man's Lawyer. Leeds, with a population in 1931 of over 480,000, has no official association. There is apparently some kind of unofficial organisation, but it is considered to be an entirely private concern, and no reports are ever issued. Exeter, with a population of 66,000, has no association, although the secretary of the Poor Persons Procedure states that from time to time he receives many enquiries from poor persons which do not form the subject of applications to the Poor Persons' committee, and which he does his best to answer. Derby, with a population of over 140,000, has no association. Bolton, with a population of nearly 180,000, has no association, but the secretary of the Poor Persons Procedure gives free advice from time to time to deserving cases sent to him from the Guild of Help. Further large centres where there is no Poor Man's Lawyer Association are as follows—Cardiff (population 220,000), Plymouth (208,000), Sunderland (185,000), Wolverhampton (133,000), Stockport (125,000), Preston (118,000), Carlisle (57,000), Stockton-on-Tees (67,000), and Luton (70,000). Such an association is to be started or has recently been established at Nottingham and Wakefield. Enquiries as to the existence of a Poor Man's Lawyer Association frequently revealed the fact that there was much confusion as to the difference between the Poor Man's Lawyer and the Poor Persons Procedure. One secretary of a Poor Persons Procedure wrote: "I do not quite know what is meant by the Poor Man's Lawyer Association?" Yet few would deny the great importance of such a society. The cases dealt with by the Poor Man's Lawyer are extremely varied. They are composed mainly of matrimonial disputes (for hearing in police courts) and questions on landlord and tenant, hire-purchase, wills and intestacies, motor accidents, and workmen's compensation. As regards non-criminal police court cases, Manchester has a list of solicitors on the rota who will take such cases for a nominal fee, but it is difficult to persuade a sufficient number to assist in that kind of proceeding, mainly owing to the fact that it may mean waiting a whole morning in court before the case is called on.

A commission presided over by The Rt. Hon. Viscount Finlay (then Mr. Justice Finlay) on legal aid in civil cases, reported in 1928, referred to the Poor Man's Lawyer Association in the following terms:—

> "We have been enormously impressed by the activities of these societies. Their work is of inestimable value and must often for barristers and solicitors engaged be of an exacting nature. Social legislation of the last generation has made advice much more necessary. Frequently advice is to show that what has been felt as a grievance is none at all. We regret that there are many important centres with no Poor Man's Lawyer. We are glad to believe that the number of centres will be rapidly enlarged. If in every important centre of population there was a Poor Man's Lawyer, we are satisfied that the problem of legal aid would be to a very great extent solved."

When these words were written there were eleven towns outside London with Poor Man's Lawyer centres. To-day, ten years later, the number of towns with such an association remains practically the same. Clearly, mere words of exhortation from a Royal Commission will not solve the problem.

This commission, in the course of its investigation, considered a suggestion that provision should be made for legal aid being given to all persons insured under the National Health Insurance Acts. It concluded, however, that such a scheme would, in practice, prove unworkable chiefly because the suggested analogy between medical benefit and the proposed legal benefit did not exist. It also considered a suggestion that a system should be organised by municipalities or by the state by which poor persons could obtain legal advice. It stated that it could not recommend such a system on the ground that it would be destructive of the peculiar relationship between solicitor and client which existed in this country. It also considered that it would be disadvantageous to the legal profession and still more to poor persons if there was substituted for the relationship at present existing between solicitor and client the relationship of a member of the public towards a state or municipal official. As an illustration of difficulties that would arise, it pointed out how awkward would be the situation if there was a dispute between two persons, each of whom was entitled to the advice and assistance of the local municipal or state solicitor.

A minority report, however, signed by Miss Dorothy Jewson and Rhys J. Davies, Esq., M.P., advocated the provision of legal advice by the local authority, the salary to be paid out of local revenue, and a grant-in-aid to be contributed by the Exchequer. It suggested that the duties of legal advisers should be confined to the giving of information and advice and that they should not be permitted to conduct in court cases on which they had advised. It added that even if their recommendations were accepted they were doubtful whether they would secure that equality in the eyes of the law that justice demands, and suggested that the whole question should be reconsidered within a few years in the light of experience gained by the local authorities providing legal advice.

The commission also considered the question of giving power to the county court judge or registrar to remit county court fees. Although the county court is supposed to be specially for poor people, the fees are high. If a claim, for example, is made for only £45, the court fees amount to £3 8s. The fees are not comparable with fees in the High Court, because many things, such as the service of documents, are done by county court officials which in the High Court have to be done by the party or his solicitor. A memorandum by the council of county court judges was submitted to the commission recommending the suggested power to remit fees. The commission, however, was against the suggestion on the ground that such a power would act as an incentive to litigation of hopeless claims. It recommended, however, that where a person was admitted to sue or defend in the High Court as a poor person, and, after such admission the case was remitted to the county court for trial, county court fees should be remitted. This recommendation has now become law, so that there is in existence this illogical situation, that if a poor person's case is remitted from the High Court to the county court, no county court fees are payable, but if a case is commenced in the county court, then, however poor the plaintiff, the fees cannot be avoided.

It may be pointed out here that courts of summary jurisdiction have power to remit fees and frequently exercise these powers without apparently causing any detriment to the community or acting as an incentive to litigation of hopeless claims.

Lastly, the commission considered whether the Poor Persons Procedure should be extended to the county court.

It decided against it on the ground that, although it was desirable to encourage the giving of good legal advice to the poor, it was not desirable, speaking generally, to encourage litigation. In the words of the commission's report: "We believe that any scheme which might tend to make people more litigious should be deprecated." Such an argument, however, would presumably condemn the existence of the Poor Persons Procedure in the High Court which many people have come to look upon not merely as beneficial but as quite indispensable.

The Position To-day.

To sum up the position in England and Wales. We have seen that excellent provision has been made for legal aid in criminal cases, but that owing to the attitude of the magistrates or their clerks in courts of summary jurisdiction the Act is to all intents and purposes a dead letter in those courts, in cases tried before the justices themselves.

In civil cases, the Poor Persons Procedure has provided a remedy for poor people in all High Court matters. To date this system has, on the whole, worked well, but it may provide many future difficulties through increasing work caused by the Matrimonial Causes Act.

In civil cases outside the High Court no assistance is provided, except in London and the twelve towns outside, with a Poor Man's Lawyer Association. The fact that the association is in such demand where it exists suggests that there is a great need for its immediate extension.

The Scottish System.

It may be of interest to compare other systems with our own. In March, 1937, the Poor Persons' Representation (Scotland) Committee presented its report to His Majesty's Secretary of State for Scotland. This report makes interesting reading. Legal aid for the poor in Scotland dates back, in contrast to the English position, to a statute passed as long ago as 1424. Before the beginning of the seventeenth century the practice of providing counsel and solicitors for poor persons in civil and criminal courts was so firmly established as to have become a constitutional right. To-day agents for the poor in Scotland give their services free of charge in both civil and criminal courts, and although technically they are not bound to assist beyond actual representation in court, in practice they assist in all the preliminary investigations as well. Free assistance is thus available in the civil litigation conducted in the sheriff court and court of session and also in all criminal courts except the police court, in which it is only available in the larger towns. Agents of the poor are appointed for the year by the Sheriff of the district and receive no fee except for their out-of-pocket expenses. The recommendations of the committee consist mainly of minor suggestions of improvement. A strong reason, however, which was given for retaining the present system was on account of the great tradition of free legal aid which had been established for so long. It is interesting, nevertheless, to observe that the committee suggested that it should be the duty of the local authority in large towns to provide out of local funds a public defensor for poor persons accused before the police court.

Legal Aid Abroad.

The problem of legal aid has been considered in many foreign countries. In 1921 the League of Nations sent to all countries which were members of the League a questionnaire as to the arrangements made for legal aid. Information as to the methods of forty countries was received and published by the League in 1927 under the title "Legal Aid for the Poor." In most countries there is no general attempt to provide legal aid as distinct from "assistance in court to poor persons." It is particularly interesting to note that in Sweden a state department has been set up.

The Swedish System.

By a decree which came into force in 1920 a legal state bureau system was established. Free legal proceedings can be granted to the defendant as well as to the plaintiff in both civil and criminal proceedings. The law does not fix any particular limit of income. It stipulates that the income and means of the person concerned shall be considered in relation to the approximate cost of the proceedings before the court in question. Free legal proceedings are allowed by the court, or, if the court is not sitting, by its president on the strength of a verbal or written application. The application may be made either before or during the trial. If a person's financial position is not sufficiently known, it must be vouched for by a public authority or by a person of known trustworthiness. If free legal proceedings are allowed, the beneficiary is exempted from direct expenditure in connection with the proceedings and is entitled to obtain the assistance of a defender at the expense of the state if this is considered necessary. The poor person is not bound to ask that the state bureau should give him legal aid. The law provides that, if there is no special reason against it, the court or its president cannot reject a poor person's request that a solicitor be allotted to him as adviser. The adviser who thus assists the poor person in court receives at the expense of the public treasury, after the matter has been considered by the court, suitable remuneration and disbursements for preparing and conducting the case. He is not entitled to obtain from his client any compensation in addition to that granted him by the public treasury. The grant of free legal proceedings carries with it the right to the free execution of the judgment given in the case. The resultant expenditure is met by the public treasury.

As regards costs: If the opposing party loses the case and if he is liable by law for the costs of the winning party, the court will order him to pay to the treasury the amount of these costs. If subsequently the person who has been allowed free legal proceedings finds that his financial position has improved to such an extent that he can without undue inconvenience refund the costs of the state—provided always that the opposing party has not been ordered to pay the costs—the said person may, on special application of the crown procurator, be ordered to refund these costs. Such an order can only be made within a period of five years.

If the poor person cannot find a solicitor in private practice to take up his case for him, he can turn instead to the state bureau. This consists of qualified advocates who give their whole time to the bureau and engage in no other work. Such a system has very many advantages. It has been found that the poor apply with more confidence to an institution which gives them all its attention than to a solicitor in private practice who perhaps may only consider their interests as a side-line to his ordinary professional work. Moreover, a great part of the countryside must otherwise remain unprovided for, owing to the impossibility in remote districts of finding solicitors to perform the requisite duties. The state bureau is under the authority of the Minister of Justice. Each town has a central office and as many branch offices and local agents as may be necessary. As regards outlying districts, at certain periods fixed in advance lawyers attached to the central office journey through the district in question stopping at various centres to give advice to those in need.

The work of the state bureau consists, first of all, in simply supplying explanations on points of law. Advice is also given as to the drawing up of legal documents. If the case in question is clearly one for the courts to decide, the court appoints a member of the state bureau to act for the poor person. This member is entitled to remuneration from the state on the same basis as when the work of legal assistance is undertaken by a person not belonging to the bureau. The member must refund to the bureau the sum he has received from the state as remuneration.

It may well happen—as, for example, if the state bureau when consulted has already been asked to defend the opposing party—that there is good reason to entrust the defence of a poor person to a solicitor not belonging to the state bureau. In such cases, and with due regard for the wishes of the person concerned, the state bureau will endeavour to find a solicitor who will act for the poor person. The advocate thus appointed by the court at the request of the state bureau will thereafter act for his client entirely on his own responsibility. There is thus in many cases free competition between the state bureau and private advocates which has a stimulating effect. This gets over the difficulty raised in The Rt. Hon. Viscount Finlay's (then Mr. Justice Finlay) report as to what would happen if a state bureau was set up and was consulted by both parties to the litigation. It also has the advantage of allowing anyone who distrusts the state bureau to obtain free legal aid from an entirely outside source. Members of the state bureau are not allowed to accept any remuneration beyond their own salaries. The administration of each state bureau is in the hands of an executive committee consisting of a chairman and vice-chairman appointed by the local authority. The expenses are paid partly by the government and partly by the local authority. Government grants are paid after an inspection of the bureau's accounts by the Department of Justice.

To study very briefly a few of the individual bureaux. Stockholm has a bureau controlled by a director and assisted by five lawyers who are appointed on a permanent basis. The institution also comprises eleven employees and four office boys. The premises are situated in the town hall. The average number of visits received by the bureau in one year amount to 24,000, and the number of letters despatched to 18,000. The population of Stockholm is about 425,000.

In most other centres—as, for example, at Malmö—the bureau is managed by a director and it has not been found

necessary to give him any other legal assistants. He employs one typist. The population is about 114,000.

Conclusions.

While it is recognised that much that has been suggested in this paper is open to argument, it is submitted that on one point at least no sound argument is possible. Figures already quoted seem to prove without doubt that there is a real need for some kind of legal aid organisation in every industrial centre. The fact that Manchester, Liverpool and Birmingham Poor Man's Lawyer centres give advice to a total of nearly 10,000 applicants each year is proof of this great demand. It seems equally clear that, broadly speaking, the choice in respect of extending facilities for legal aid lies between the extension of the present system available to-day in England and Wales or the establishment by gradual methods of the state bureau system which appears to succeed in Sweden. If we were dealing with the position in Scotland, then certainly the former method would seem preferable because of Scotland's long traditional service of "Agents of the Poor." England and Wales, however, have no such tradition, and the fact that the recommendations of the 1928 Royal Commission have been totally ineffective suggests that the second method should be adopted here.

It would be a simple matter to organise state bureaux in a few important centres and decide later whether or not the system should be extended. The Swedish system suggests that in a town with a population of 100,000 it would be sufficient to employ only a solicitor and a typist. The bureau could deal with the present work of the Poor Persons Procedure and the Poor Man's Lawyer and could also act as a Public Defence Department in criminal matters if this was thought desirable. The cost of such a centre, after deducting the costs obtained in successful actions, would probably not exceed £1,000 per centre. Supposing eventually 120 centres were established, the total cost of £120,000 per annum if divided between central and local government funds ought not in normal times to be an excessive burden on the community and would be of enormous benefit to those too poor to obtain advice in the customary way. It is, of course, recognised that until such a system has been started it is difficult to estimate the probable cost with any real certainty.

Many people will object to the establishment of a state bureau. Some will assert that the value of the Poor Man's Lawyer system lies in its being in the form of a voluntary social service with the advantage of a friendliness and informality which would be lost if it became a purely professional organisation. Yet this country is justly renowned for its methods of starting with experimental social services and eventually transforming such services into state or municipal bodies. Many examples can be given of this procedure. The work of Margaret Macmillan and Mrs. Humphry Ward paved the way for that now done by the state and municipality for mentally and physically defective children. The voluntary work of hospital almoners is now an integral part of hospital administration under many municipalities. Very recently in Manchester itself the child guidance clinic, having established its usefulness under a voluntary committee, has been taken over by the educational department of the Manchester Corporation.

To-day in England we are proud to boast of equality before the law as a fundamental safeguard of liberty; but equality in the courts is not enough. It is also necessary that there should be equality outside the courts in the shape of equality of access to legal advice. It is suggested that a system of state bureaux, while providing due safeguard against litigiousness would avoid much hardship to poor people who, without some system giving free legal aid, are unable to obtain the justice to which they are entitled.

Miss Carrie Morrison (London) said that she felt very strongly for the poor people, and was horrified at the impossibility of a poor person, ignorant of the law, making out a case. They were expected to understand the law perfectly. Often there was no one to represent the husband in a matrimonial case. Why should there not be, she suggested, a husbands' protection committee? The great difficulty was for poor persons to find the deposit. Often they did not know that they could ask the Poor Persons Committee to lower in their favour the deposit of £5. Much help might be expected from the Hire-Purchase Act, but the poor person's ignorance of his legal responsibility caused trouble, despite the lenience of the better firms. She wished to support the scheme for State aid, as new legislation concerning the poor made legal aid and knowledge more necessary in explanation of the law and the writing of letters. It was not always possible to consult the Poor Man's Lawyer, who sat infrequently. Good legal advice and assistance were very much needed to-day for the poor.

Sir Harry Pritchard (London) observed that the Hastings meeting three years ago had dealt with this very subject. Why, he asked, should they do all this work—and for nothing? As chairman of the Bentham committee he never lost an opportunity of asking solicitors to help in cases with which the Committee was concerned. He appealed to solicitors present to help on their own conditions, but still to help. Even when his appeal had to be refused, a reason was always given for inability to aid him. But, he emphasised, no one had turned round and asked: "Why should I be expected to do this work for nothing?" Mr. Allen-Jones had not furnished a satisfactory answer to this question. He agreed that a State department should undertake this work, but only after voluntary effort had been made. Lawyers hated to see injustice and the inability to obtain justice, and their main motive was probably pure kindness of heart. Many sorts of work did not offer remuneration. With reference to the costs, very poor persons who could not find the money could not be reached. The Bentham committee's work was entirely voluntary, and he would like to see a uniform practice adopted in place of the present many different practices of settling the costs. It was, in his opinion, most unfair that a person who got work done for nothing owing to his indigence should have to pay court fees. The work done by the Bentham committee and the Poor Man's Lawyers was highly appreciated. The Bentham committee had had a deficit, which had been wiped out by the aid of a committee of ladies who realised the value of the work.

Sir Reginald Poole (London) raised an emphatic dissent to the proposal of Government control. He had a horror of bureaucratic control. Poor Persons Procedure had been under Government control, and the solicitors had had to take it over to prevent a total collapse. The best course to follow would be to obtain a grant now. He had found that very poor persons nevertheless managed to obtain the money. The amount required in the average case was little more than £2. Poor people had their pride, which should be considered, and they liked to help pay their own fares. In nearly every case—though there were, of course, exceptions—voluntary work was rewarded by volumes of thanks.

Mr. C. Smith (Brighton) thought that the remedy lay with solicitors themselves to prevent Government control, and that they should do more in the direction of the Poor Man's Lawyer. People, he said, wanted guidance rather than litigation. Even the writing of letters often brought about the desired result. Some extension of dealing with very poor people must be undertaken by societies themselves, or else some form of State bureau would probably be set up.

Mr. W. G. Beecroft (Southend) contended that Mr. Allen-Jones had not dealt with a very important point, namely, a "means test." There were instances, he remarked, where people who had money enough tried to get free service. He recalled that in one instance a widow had endeavoured to do so when she had recently been left a legacy of £70. It was easy for people to misrepresent their means. With regard to payment, he thought that if it were really necessary to find the amount, people would do so; at any rate they could contribute something to the funds which were devoted to county court claims which the advisory solicitor thought had a chance to succeed. It should be explained to the poor people that this was only a loan and would be repaid even if their cases did not meet with success. The difficulty lay in the fact that a solicitor might be asked to take up a case against a client of his, especially in an action by a tenant against a landlord.

Mr. R. G. Page (Bournemouth) declared that Bournemouth had for two or three years had a Poor Man's Lawyer Committee. He suggested that secretaries of Poor Persons' Committees might be inclined to resent the co-existence of a Poor Man's Lawyer. A short time ago he had brought forward a proposal that costs obtained in cases where a Poor Man's Committee was concerned should go back to the committee. He considered it to be the duty of any reasonable justice's clerk to see that cases went before the justices in the proper form.

Mr. B. A. Wortley (Wilmslow) suggested the Poor Man's Lawyer might get help from students of the faculty of law, who might assist in clerking but not in giving advice.

Mr. J. T. Higgs (Brierley Hill) asserted that in districts where there was a large number of poor persons, most of them required help. Why not, he asked, establish a rota or, perhaps, as in the dental and medical professions, get assistance from younger members as poor persons' advisers with the aid of older members?

Mr. Reginald Armstrong (Leeds) mentioned an aspect not yet touched upon. There were too many various and different organisations over the country. What was needed was consolidation and unification. He added that the person who really needed assistance was not so much the man with

an income up to £1 as the man with an income immediately above that, up to the point where he could really afford to employ a lawyer.

Mr. ALLEN-JONES, in reply, said that often it was desirable that letters should be written. In Manchester they had a rota of typists and typewriters, and copies were filed. Sir Harry Pritchard had asked why they should do it all for nothing. The answer was that it should not be done for nothing. State bureaux would provide suitable remuneration. The only reason why the work was now done for nothing was that otherwise it would not get done at all. It was objectionable that a poor person should be charged if he lost his case. An insurance company in such cases had to pay costs even when successful in an action. In Sweden, State bureaux worked very well. Here, their institution—in only a few towns—would be, at first, purely experimental. He very much wondered how poor persons really managed to get a deposit, and feared that only too often it was by going to a money-lender. As to a means test, solicitors could get a statement of wages from the employer. If the charge was regarded as charity and there were no costs, many solicitors, he imagined, would withdraw. He, therefore, suggested that every provincial law society should be urged to institute Poor Man's Lawyer centres.

Legal Notes and News.

Honours and Appointments.

The King has been pleased, on the recommendation of the Secretary of State for Scotland, to appoint Mr. JAMES ALBERT GILCHRIST, K.C., to be Sheriff-Substitute of the Lothians and Peebles at Edinburgh, with effect as from 3rd October, in place of Mr. Robert Low Orr, K.C., resigned. Mr. Gilchrist was called to the Scottish Bar in 1910, and took silk in 1934.

Sir WILLIAM H. CHAMPNESS, solicitor, head of the firm of Messrs. Champness, Dale & Stretton, of Furnival Street, E.C., received from His Majesty The King last week the honour of knighthood at the close of his year of office as Sheriff. He was admitted in 1903.

The Secretary of State for Scotland has appointed Mr. A. KEDDIE, second class depute, sheriff clerk service Ayr, to be Sheriff Clerk of Moray at Elgin, in succession to Mr. J. Foster, resigned.

Mr. GERALD BURKINSHAW has been appointed Town Clerk of Chester as from 1st May, 1939, in succession to Mr. J. H. Dickson, who has held the post for thirty-five years. Mr. Burkinshaw was admitted a solicitor in 1928.

Mr. PERCY D. WADSWORTH, LL.B., solicitor, of the Town Clerk's Office, Accrington, has been appointed Town Clerk of Radcliffe, Lancs. Mr. Wadsworth was admitted a solicitor in 1932.

Mr. J. S. MILLS, solicitor, of Radcliffe, Lancs, has been appointed Assistant Solicitor to the Great Yarmouth Corporation. Mr. Mills was admitted a solicitor in 1937.

Notes.

On Wednesday, 12th October, at 4.30 p.m., a paper by Professor Perdicas will be read before the Grotius Society, on "Modern Maritime Law in Greece." Sir George Rankin will preside.

The University of London Law Society announce that a Freshers' Social will be held at University College, on Tuesday, 11th October, at 8 p.m. Professor D. Hughes Parry, M.A., LL.M., will deliver an address.

Sir Alfred Pease, who recently retired from the chairmanship of the Guisborough bench after fifty-eight years as an active magistrate, has been presented with an illuminated address signed by all the magistrates in the Langbaurgh East division of Yorkshire.

At University College, London, a course of public lectures on International Relations will be given throughout the session 1938-39, by Mr. Georg Schwarzenberger, Ph.D., Dr.Jur., Lecturer in the Faculty of Laws, on Mondays, at 5.30 p.m. The first term will consist of ten lectures, beginning 10th October, 1938, the second term of ten lectures, beginning 16th January, 1939, and the third term of about nine lectures, beginning 1st May, 1939. The lectures are open to the public without fee or ticket.

Court Papers.

Supreme Court of Judicature.

MICHAELMAS SITTINGS, 1938.

THE COURT OF APPEAL.

A List of Appeals for hearing, entered up to Saturday, 24th September, 1938.

FROM THE CHANCERY DIVISION.

(Final List.)

For Judgment.

Mullard Radio Valve Co Ltd v British Belmont Radio Ltd
Same v Same
Same v Same
Same v Same

For Hearing.

In the Matter of the Cleadon-Trust Ltd Re Companies Act 1929
Hammer Productions Ltd v British Lion Film Corporation Ltd
Lurie v Lurie
Re Vaux, dec Nicholson v Vaux
Re Same Same v Same
Re Same Same v Same
Re Articles of Association of Frank F Scott (Liverpool) Ltd Scott v Scott
Knightsbridge Estates Trust Ltd v Byrne
Re Horlick's Settlement Trusts Colledge v Horlick
Re Ward, dec Ward v Ward
Re Hodson's Settlement Brookes v HM Attorney-General
Westminster Bank Ltd v Same
Smith v Macgowan
Re Cartwright dec Cartwright v Smith
Haile Sellassie v Cable & Wireless Ltd
Watson v Binet
Governors of Queen Anne's Bounty v Tithe Redemption Commission

(Interlocutory List.)

Re Vince's Dry Batteries Ltd Re Trade Marks Acts 1905-1919
Re Bramhall Tudor Cinema Properties Ltd Greenhalgh v Clayton

(In Bankruptcy.)

Re Smith, Colman Exparte the Debtor v The Petitioning Creditors and the Official Receiver
Re a Debtor (No 441 of 1938) Exparte the Petitioning Creditor v The Debtor
Re a Debtor (No 253 of 1938) Exparte the Debtor v The Petitioning Creditor and the Official Receiver
Re a Debtor (No 533 of 1938) Exparte the Debtor v The Petitioning Creditor and the Official Receiver
Re a Debtor (No 660 of 1938) Exparte the Debtor v The Petitioning Creditors and the Official Receiver
Re a Debtor (No 660 of 1938) Exparte the Debtor v The Petitioning Creditors and the Official Receiver
Re a Debtor (No 84 of 1938) Exparte the Debtor v The Official Receiver and the Petitioning Creditors

FROM THE PROBATE AND DIVORCE DIVISION.

(Final List.)

Thompson v Thompson
Grigg v Grigg
Same v Same
Pilkington v Pilkington
Yeoman v Yeoman
Re Setton, dec Setton v Setton
Re Horrocks, dec Taylor v Kershaw
Pratt v Pratt

FROM THE COUNTY PALATINE COURT OF LANCASTER.

(Final List.)

Re Phillips, dec Public Trustee v Phillips

FROM THE KING'S BENCH DIVISION.

(Final and New Trial List.)

Daniolos v Bunge & Co Ltd
Dunster v Sweet
The King v Minister of Health
Stancliffe v Borough of Caernarvon
British Industrial Plasties Ltd v Ferguson
Pratt v Cook Son & Co (St Pauls) Ltd
Prestige & Co Ltd v Brettell
McCormick v Bennison
Barlow v Manchester Corporation
Singh v Hammersmith Palais Ltd
Sharp v Avery
Re Arbitration Acts 1889 and 1934 Welch v Royal Exchange Assurance
Jones v Goring
Wardman v Villiers
Rule v Southern Newspapers Ltd
Houghton v Drakes
Same v Same
Walton v Newcastle & District Electric Lighting Co Ltd
Re Housing Acts 1925/1936 Re Brighton (Everton Place Area) Housing Confirmation Order 1937 E Robins & Son Ltd v Minister of Health
Rule v Buck
Brierley v Addressograph-Multigraph Ltd
Morris v Spalding Industrial Co-op Society
Vowles v Armstrong-Siddeley Motors Ltd
Same v Same
Harvey v Brintons Ltd
Cattell v Bemrose
Dalton v Jean Bowes (Knightsbridge) Ltd
Hanson v The Wearmouth Coal Co Ltd
Plackett v Dimishky
J F Adair & Co Ltd (in liq) v Bernbaum
Re The Mines (Working Facilities and Support) Acts 1923 and 1925 The Consett Iron Co. Ltd v Gibson
Horrobin v Bray
Baker Street Estates Ltd v Jacobs
Marginson v Blackburn Borough Council
Ellis v Raine
Same v Same

Kilduff v Wilson
Coventry v Same
Temple v Reeve
Harrods Ltd v Geneen
Liebling v H J Evans & Co Ltd
Peel v Gawith
O'Connor v Madsden
Re Housing Act 1936 Re Camberwell (Wingfield Mews) No 2 Clearance Order 1936
McWilliam v Linter
Same v Same (Original Motion)
Greenwood v Atherton
Metcalfe v London Passenger Transport Board
Lewis v Denye
Mahon v Osborne
Chisholm v London Passenger Transport Board
Godal v Harris
National Provincial Bank Ltd v Thomas
Square v Model Farm Dairies (Bournemouth) Ltd
Same v Same
Bailey v Howard
Farmery v G J Keddie & Sons
The Hibernian Bank Ltd v Hanson
Kennington Estates Ltd v Job
Corrie v Colebrook & Sons
The Owners of the ss Maisol v Exportless Ltd
Westripp v Baldock
Whitaker v Carrier
Sunderland & Hainsworth Ltd v W H Robinson & Co
Bigny v City of London
Re Agricultural Holdings Act 1923 Bebb v Frank
Warden v Midland Bank Ltd
Cliff v Brooklands Aviation Ltd
Harris v Banks
Lomax v Thorpe & Goddard Ltd
Christiani & Nielsen Ltd v Nelson
Christian v Coleclough
Delinko v I Israel Ltd
Peacock v Southwark Borough Council
Shirlaw v Southern Foundries (1936) Ltd
Snow v Quin and Axtens
Webster v Hanton
The British & Colonial Lead Co Ltd v Debbaudt
Payton v Ford
Re Arbitration Acts 1889 to 1934 Kawasaki Kisen Kabushiki Kaisha of Kobe v Bantham Steamship Co Ltd
Hewett v Bishop King & Co
United Australia Ltd v Barclays Bank Ltd
Goodfellow b Blakesley
Hodge v Weston
Hall Brothers Steamship Co Ltd v Young
Sedleigh-Denfield v St Joseph's Society for Foreign Missions
Bulteel v Leigh Borough Council
Crouch v Stonehouse Brothers Ltd
Kinney v Cammell Laird & Co Ltd
Cassen v Fidler
McKechnie v Carswell
Griffiths v Smith
Barrett v Waller & Hartley Ltd
Metalcraft Manufacturing Co (Canada) Ltd v Gooch
Scrutton v City of Birmingham
Ferrier v United Automobile Services Ltd
The Sedgefield Parish Council v The Fishburn Parish Council
Hogan v The Pacific Steam Navigation Co
Wilkinson v Spiro
Robinson v Chitty
Poliakoff v News Chronicle Ltd
Baxter v Mobbs
Tanker v Blaiswais
Same v Same
Burton v Yorkshire Amalgamated Products Ltd
Swain v Southern Railway Co
Harland v Empire Cotton Growing Corporation
Same v Same
Fisher v Winch
Hird v Rae Ltd
Gallina v Diamandis

(Interlocutory List.)

Alexander v Mason
Smith v Freestone Endura Co Ltd
F T & J Taylor Ltd v Bishops and Lacey Ltd
Kingdon b Pitchers Ltd
Carpenter v Ebblewhite
Norris v Ord

(Revenue Paper—Final List.)

Odhams Press Ltd v Cook (HM Inspector of Taxes) (adjd for finding of facts)
The United Steel Companies Ltd v Cullington (HM Inspector of Taxes)
Same v Same
Newbarns Syndicate v Hay (HM Inspector of Taxes)
Commissioners of Inland Revenue v Kered Ltd
Kered Ltd v Commissioners of Inland Revenue
Commissioners of Inland Revenue v Sigma Trust Ltd
Commissioners of Inland Revenue v Willant Trust Ltd
Prendergast (HM Inspector of Taxes) v Cameron
Re Barnes, dec Re Finance Act 1894, s. 10, Barnes v Commissioners of Inland Revenue
The Executors of Walter Sherwin Cottingham, dec v The Commissioners of Inland Revenue
HM Attorney-General v Cainter
HM Attorney-General v Glyn Mills & Co
Commissioners of Inland Revenue v Mallaby-Deeley
G Scammell & Nephew Ltd v Rowles (HM Inspector of Taxes)
Laycock (HM Inspector of Taxes) v Freeman, Hardy & Willis Ltd
Commissioners of Inland Revenue v Abbey
Mallaby-Deeley v Commissioners of Inland Revenue

FROM COUNTY COURTS.

Waller v Sturt & Son (a firm)
Roberts v Rees
King-Line Ltd v Moxey Savon & Co Ltd
I P A Westminster Ltd v Noble
Mockler v Russell
Steel v Glynn
The Great Yarmouth Port and Haven Commissioners v F T Everard & Son Ltd
Fox v Marshall
Mansfield v Franklin
Morris v Rawlinson
Myers v Stepney Borough Council
Coyne v Hayden
Cubbin v Chargewell Radio Services
Fairfax v Mullins
Hunt v Arnold
Claydon v Sir Lindsay Parkinson & Co Ltd
Menon v New Ideal Homesteads Ltd
The Temperance Loan Fund Ltd v Gale
Carbo Plaster Ltd v Nunn's Estates
Fisher v Bilson
Wright v Paddington Porough Council
Jones v Sheridan
Redfern v Law
Goodey v Bennett
James Duke & Sons Ltd v Best

RE THE WORKMEN'S COMPENSATION ACTS.

Craig v Dover Navigation Co Ltd
Scott v A C Marsden (Plasterers) Ltd
Barkes v Burrows
Darlington v Hogarth & Sons
Foster v Mandale
Widmar v Grove
Evans v The Powell Duffryn Associated Collieries Ltd
Llay Main Collieries Ltd v Jones
Wheat v Florence Coal & Iron Co Ltd
Hawker v Doncaster Amalgamated Collieries Ltd
Howard v Chas P Kinnell & Co Ltd
Preece v Gloucester Railway Carriage & Wagon Co Ltd
Mogridge v Whitehead Iron & Steel Co Ltd

FROM THE ADMIRALTY DIVISION.

(Final List.)

(With Nautical Assessors.)

Re "The Brabant" F. 1307 Folio 222 Owners of ss "Felix Dzerjinsky" v Owners of ss or Vessel "Brabant"
The "Dux" 1937. S. No. 2591, Folio 195. The Owners of Lighter or Vessel "Seabird" and the Owners of her cargo v The Owners of Keel or Vessel "Dux"

FROM COUNTY COURTS

Re "The Nordborg" 1937 Folio 273 Owners of ss "Nordborg" v C P Sherwood & Co

Standing in the "Abated" List.

FROM THE CHANCERY DIVISION.

(Final List.)

Hanson v Marlow Investment Trust Ltd (s.o.g. liberty to restore Jan 11, 1938)

FROM THE KING'S BENCH DIVISION.

(Final and New Trial List.)

Owens v Liverpool Corporation (s.o.g. April 29, 1938)

(Interlocutory List.)

Southby v Kingshill Trading Co Ltd (s.o.g. Jan 31, 1938)

RE THE WORKMEN'S COMPENSATION ACTS.

Adams v Horace V Clogg Ltd (s.o.g. June 1938)
Matthews v Kelco Metals Ltd (s.o. liberty to apply to restore June 29, 1938)

HIGH COURT OF JUSTICE—CHANCERY DIVISION.

There are Three Lists of Chancery Causes and matters for hearing in Court. (I) Adjourned Summonses and Non-Witness actions; (II) Witness Actions Part I (*the trial of which cannot reasonably be expected to exceed* 10 *hours*) and (III) Witness Actions Part II; every proceeding being entered in these lists without distinction as to the Judge to whom the proceeding is assigned. During the Sittings there will usually be two Judges taking each of these lists and warning will be given of proceedings next to be heard before each Judge. Applications in regard to a "warned" matter should be made to the Judge before whom it is "warned."

Applications in regard to a proceeding which has not been "warned," should usually be made to the senior of the two Judges taking the list in which the proceeding stands.

Motions, Short Causes, Petitions and Further Considerations will be taken by that one of the Judges taking the Non-Witness List who belongs to the group to which the proceeding is assigned.

GROUP II.—Mr. Justice LUXMOORE, Mr. Justice FARWELL and Mr. Justice MORTON.

GROUP I.—Mr. Justice BENNETT, Mr. Justice CROSSMAN and Mr. Justice SIMONDS.

The Adjourned Summons and Non-Witness List will be taken by Mr. Justice FARWELL and Mr. Justice SIMONDS.

The Witness List Part I will be taken by Mr. Justice LUXMOORE and Mr. Justice BENNETT.

The Witness List Part II will be taken by Mr. Justice CROSSMAN and Mr. Justice MORTON.

Motions, Short Causes, Petitions and Further Considerations in matters assigned to Judges in Group I will be heard by Mr. Justice SIMONDS.

Motions, Short Causes, Petitions and Further Considerations in matters assigned to Judges in Group II will be heard by Mr. Justice FARWELL.

Companies (Winding up), Liverpool and Manchester District Registries and Bankruptcy business will be taken as announced in the Michaelmas Sittings Paper.

Set down to 24th September, 1938.

Mr. Justice LUXMOORE and Mr. Justice BENNETT.

Witness List. Part I.

Actions, the trial of which cannot reasonably be expected to exceed 10 *hours.*

Before Mr. Justice LUXMOORE.

Assigned Petitions.

Re W C Chapman's Letters Patent No 200199 Re Patent & Designs Acts 1907–1932
Re J de la Cierva's Letters Patent No 196594 Re Patent & Designs Acts 1907–1932

Re Hele-Shaw's Letters Patent Nos 210101 and 210376 Re Patent & Designs Acts 1907–1932
Re Westinghouse Electric & Manufacturing Co's Letters Patent No 368805 Re Patent & Designs Acts 1907–1932
Re T L Shepherd's Letters Patent No 442936 Re Patent & Designs Acts 1907–1932
Re T L Shepherd's Letters Patent No 442931 Re Patent & Designs Acts 1907–1932
Re T L Shepherd's Letters Patent No 442935 Re Patent & Designs Acts 1907–1932
Re Butherus' and British Sangamo Co. Ltd's Letters Patent No 346282 Re Patent & Designs Acts 1907–1932

On Thursday, 13th October, the following Witness Action will be in the List :—

Witness List. Part II.

Westhoughton Coal & Cannel Co Ltd v Wigan Coal Corporation Ltd (pt hd)

Before Mr. Justice BENNETT.

For Judgment.

Witness List. Part II.

Re Bradshaw, dec Blandy v Willis

For Hearing.

Retained Matters.

Non-Witness List.

Re Forster, dec Gellatley v Palmer (adjourned summons—restored — pt hd — s.o. to October 13 to be mentioned)
Re Adler's Will Trusts Roberts v Heilbrunn (adjourned summons—pt hd — s.o. generally—liberty to restore)
Re Heilbrunn's Trusts Roberts v Heilbrunn (adjourned summons—pt hd—s.o. generally—liberty to restore)
Re Rooke, dec Ross v Bryant (adjourned summons—pt hd—s.o. generally—liberty to restore
Re Knowling, dec Knowling v Norcock (adjourned summons—pt hd — s.o. generally — liberty to restore)

Companies Court.

Adjourned Summons.

Re Cleadon Trust Ltd Remove Liquidator (Application of Robert Creighton) pt hd

At the beginning of the Sittings, Mr. Justice BENNETT will take the following :—

Witness List. Part I.

Bradford Third Equitable Benefit Building Society v Borders (action restored—pt hd)
Same v Marriott (action restored—pt hd)

Procedure Summonses.

Grahame-White v Grahame-White (proc sumns)
Same v Same (proc sumns)
Same v Same
Re White, dec Clare v Parker
HM Attorney-General v The Rochdale Canal Co
Skolnick v Littman
Clements v Curtis
Babbage v Frankland
Re Beven, dec Bradbrook v Beven

Companies Court.

Petitions.

Britivox Ltd (to wind up—ordered on Nov 16, 1931, to s.o. until action disposed of—liberty to restore)
Mitcham Creameries Ltd (same—ordered on Oct 15, 1934, to s.o. generally—liberty to apply to restore after action disposed of)
Sun-Ray Studios Ltd (same—ordered on July 15, 1935, to s.o. generally)
Arthur W North & Co Ltd (same—ordered on May 10, 1937, to s.o. generally)
Thracian Union Trust Ltd (same)
Peacock Bronze Powder Works Ltd (same)
Barker & Co (Coachbuilders) Ltd (same)
Nyman & Cooper Ltd (same)
British Civilian Gas Mask and Appliances Ltd (same)
East Kent Cinemas Ltd (same)
Johnson's Exhibition Agency Ltd (same)
R G C Panels Ltd (same)
Parker (Builders) Ltd (same)
I Kirschbaum Ltd (same)
Egbert Moore Ltd (same)
Allied Banking Corporation of Great Britain Ltd (same)
Celtic Cream Ices Ltd (same)
Jubilee Caravans Ltd (same)
Coronation Upholstery Ltd (same)
Rossett Estates Ltd (same)
Ronald H Watson Ltd (same)
Lynx Libraries Ltd (same)
First British Guaranty Trust Ltd (same)
Taglioni's (Caterers) Ltd (same)
Ring Press Ltd (same)
New Arts Theatre Club Ltd (same)
S & J H Tym & Son Ltd (same)
John Holder & Co Ltd (same)
Rogers & Palmer Bros (Enfield) Ltd (same)
Kingswood and Marle Ltd (same)
Darryl Ltd (Same)
Contractors (London) Ltd (same)
Zermopad Ltd (same)
Taylor Beckman Ltd (same)
Surgical Manufacturing Co Ltd (same)
Knight & Hitchcock Ltd (same)
C F Turner Ltd (same)
E A Robinson Ltd (same)
Springfield & Franks Ltd (same)
A M Ratford Ltd (same)
Auctions (Wigan) Ltd (same)
Headstone Estates Pinner Ltd (same)
Alliance Partners Ltd (same)
Anthony & Anthony Ltd (same)
D George Collins Ltd (same)
Fleetway Press (1930) Ltd (same)
Associated Cabinet Manufacturers Ltd (same)
Mapp Kemp and Co Ltd (same)
Dolden Ltd (same)
Ravensdale (Stamford Hill) Estates Ltd (same or for supervision order)
Sycamore (Shopfitters) Ltd (to wind up)
G Moffatt Ltd (same)
D C P Durochrome Ltd (same)
Ward's Theatres Ltd (same)
Collins Repertory Co Ltd (same)
Whitehall Contractors Ltd (same)
O Anacker Ltd (same)
United Australia Ltd (same)
Prunol Products Ltd (same)
Dicks & Co (Glassworks) Ltd (same)
J Sadler Phillips & Co Ltd (same)
M & C Robes Ltd (same)
Salerni Coupling Ltd (same)
Conlon Trading Co Ltd (same)
Robert Whewell & Son Ltd (same)
Middlesex Furnishers Ltd (same)
A W Wood & Co Ltd (same)
Amcolite Ltd (same)
George H Potts Ltd (same)
Bentinck Investment Trust Ltd (same)
Riley (Coventry) Ltd (same)
Shaws Agency Ltd (same)
Selitex Ltd (same)
Robert A Anderson (Slaters) Ltd (same)
Roofing (Romford) Ltd (same)
Paul Ruinart (England) Ltd (to confirm reduction of capital)
British Woollen Cloth Manufacturing Co Ltd (to confirm reduction of capital—ordered on Dec 8, 1930, to s.o. generally—liberty to restore)
Charles Brown and Co Ltd (to confirm reduction of capital)
English Motor Agencies Ltd (to confirm reduction of capital—ordered on April 1, 1935, to s.o. generally—liberty to apply to restore)
Dickin Brothers Ltd (to confirm reduction of capital)
British Celilynd Ltd (same)
O Hyman & Sons Ltd (same)
Thoroughfare (Properties) Ltd (same)
Durham Duplex Razor Co Ltd (same)
J W Whittall & Co Ltd (same)
Henry Finch Ltd (same)
Southern Lands Corporation Ltd (same)
J Baker & Co Ltd (same)
G R Herron & Son Ltd (same)
Peel River Land and Mineral Co Ltd (same)
Hensall Roofing Tile Co Ltd (same)
Metal Union Ltd (same)
Tilling-Stevens Ltd (same)
Behrend & Co Ltd (same)
Doricotts Ltd (to sanction scheme of arrangement)
Middlesex Banking Co Ltd (same)
Gresham Street Warehouse Co Ltd (to confirm alteration of objects)
Society of Certificated Teachers of Pitmans Shorthand and other Commercial Subjects Ltd (same)
Teachers' Training and Registration Society (same)
Colchester Brewing Co Ltd (s. 155)
Queen's Club Gardens Estates Ltd (s. 155)
Western Mansions Ltd (s. 155)
British Italian Banking Corporation Ltd (s. 155)
Banir Rubber Estates Ltd (to confirm reduction of capital and to confirm alteration of objects)
Brazilian Warrant Agency and Finance Co Ltd (to sanction scheme of arrangement and to confirm reduction of capital)

Motions.

Trent Mining Co Ltd (ordered on July 31, 1931, to s.o. generally—liberty to restore)
Kings Cross Land Co Ltd (ordered on June 26, 1934, to s.o. generally—liberty to apply to restore)
Flactophone Wireless Ltd (ordered on July 10, 1934, to s.o. generally)
Sunshine Remedies Ltd (ordered on July 29, 1935, to s.o. generally)
Brittains Motors Ltd (ordered on July 8, 1935, to s.o. generally—liberty to apply to restore)
Una Star Laundry Ltd (ordered on 9th May, 1938, to s.o. generally—liberty to restore)
Electro Chemical Processes Ltd

Adjourned Summonses.

Marina Theatre Ltd (application of F H Cooper—with witnesses—ordered on May 10, 1933, to s.o. generally—liberty to apply to restore)
W Smith (Antiques) Ltd (application of Liquidator—with witnesses—ordered on Dec. 8, 1932, to s.o. generally).
Pictos Ltd (application of Liquidators — with witnesses — ordered on March 29, 1935, to s.o. generally—liberty to apply to restore)
Bottlers and General Engineers Ltd (application of Harold Cecil Gains—with witnesses—ordered on June 17, 1937, to s.o. generally—liberty to apply to restore)
Cleadon Trust Ltd (application of Robert Creighton—ordered on April 12, 1938, to s.o. generally)

Mr. Justice LUXMOORE and Mr. Justice BENNETT.

Witness List. Part I.

Matthews v Mills Brothers (a firm)
Re Noakes, dec Watson v Prentice
Coles v Raycar Properties, Ltd
R Harrison Ltd b Brown
Fake v Tooke
Collins v Ring
Davis v Laws
Waller v Ornstein & Masoff Ltd (not before Oct. 31)
Rogers v Rogers
Bridges v Bridges
Re Moffatt, dec Moffat v English
Heginbotham Bros Ltd v Burne
Teale v Edmonton Stadium Greyhound Racing Track Ltd
Gregory v Gregory
Barton v Alliance Economic Investment Co Ltd
Wright v Wright Beckett and Pennington (a firm)
Exeter Bakeries Ltd v Rackham
Eastbourne Mutual Building Society v Hicks
Ogilvie v Beazley

Mr. Justice FARWELL and Mr. Justice SIMONDS.

Adjourned Summonses and Non-Witness List.

Before Mr. Justice FARWELL.

Motions for Judgment.

The Buff Book Ltd v The Essex Boat Co Ltd
Jackson v Jackson

Petition.

Re Mathias' Life Policy
Re Life Assurance Companies (Payment into Court) Act 1896

Before Mr. Justice SIMONDS.

Retained Matter.
Non-Witness List.

Re Rhagg, dec Easten v Boyd (to be mentioned Oct. 12)

Motions for Judgment.

Clinch v Bristol Tote Co Ltd
Commercial Estates Ltd v British Industries Health First Aid and Welfare Centres Ltd
Alexander v Tucker

Petitions.

Re Holdsworth, dec Watson v Holdsworth
Re Smart's share of residue
Re Trustee Act 1925

Procedure Summonses.

British Thomson-Houston Co Ltd v Tungstalite Ltd
Re Marten, dec Marten v Marten (restored)
Nickells v Kirby
American Chain & Cable Co Inc v Hall's Barton Ropery Co Ltd
Lambournes (Birmingham) Ltd v Cascelloid Ltd
Wright v Kyriakides
Hallett v Amalgamated Engineering Union
Same v Same

Further Consideration.

Re Hanbury, dec Comiskey v Hanbury

Mr. Justice FARWELL and Mr. Justice SIMONDS.

Adjourned Summonses and Non-Witness List.

Re Singer, dec Singer v Jeffery
Re Baker, dec Reynolds v Baker
Re Stovold, and re Trustee Act 1847
Re Street, dec Ireland v Sowter
Re Champness, dec Downer v Champness
Re Andrews, dec Andrews v Andrews
Re Whitehouse, dec Grimley v Whitehouse
Re Styring, dec Styring v Styring
Re Elliott, dec Binns v Dr. Barnardo's Homes
Re Squire Field, dec Field v Pilling
Re Reed, dec Reed v Reed
Re Wilson, dec Midland Bank Executor and Trustee Co Ltd v Tetley
Re Flynn, dec Westminster Bank Ltd v Flynn
Re Kersey, dec Alington v Alington
Re Whighton, dec Wrighton v Gloster
Re Saunders, dec Mudge v Saunders
Re Warwick, dec Rider v Public Trustee
Re Forester, dec Bennett v Forester
Re Dale, dec Dale v Dale
Re Brownlie, dec Brownlie v Muaux
Re Allen, dec Allen v Allen
Re Dickinson's Settled Estates Dickinson v Pytches
Re Wapshott, dec Freeman v Taylor
Re Griffiths, dec Midland Bank Executor and Trustee Co Ltd v Griffiths
Re Stothard, dec Stenton v Stenton
Re Myers, dec Chalke v Rosen
Re Rhodes, dec Rhodes v Rhodes
Re Jeffreys, dec Finch v Martin
Re Fry, dec Woolfe v Joseph
Re Long, dec Long v Long
Re Richardson, dec Jackson v Holmes
Re Rooke, dec Re Lands Clauses Consolidation Act 1845
Re Vaile's Policy Rountree v Vaile
Re Gabriel's Settlement Gabriel v Maskell
Re Long's Settlement Long v Long
Re John's Patent and Re Patent & Designs Acts 1907–1932
Re Rouse, dec Robinson v Wilde
Re Watson, dec Brosch v Charlton
Re Bird, dec New v Bird
Re Wylie, dec Lidiard v Longbourne
de Fininger, dec Hitchon v Geigy
Re Woolf, dec Isaacs v Wise
Re Garner, dec Garner v Garner
Re Crosby, dec Gill v Crosby
Re Burdett, dec Upward v Upward
Re Saunders, dec Beale v Peycke
Re Hoult, dec Hancock v Mycock
Re Lewis, dec Mackintosh v Trayner
Re Dent, dec Acklam v Horner
Re Berton, dec Vandyk v Berton
Re Brown, dec Pullen v Pullen
Re Bakewell & District Liberal Association Re Trustee Act 1925
Re Ryan, dec Lloyds Bank Ltd v Ryan
Re Guy's Settled Land Re Settled Land Act 1925
Royal Society for the Protection of Birds v Bentley
Re Reeve, dec Westminster Bank Ltd v Reeve
Re Scale, dec Richards v Scale
Re Sanger, dec Taylor v North
Re Sturdy, dec Robson v Talbot
Re Campbell, dec Campbell v Taylor
Re Maclennan, dec Few v Bryne
Re Scott, dec Capron v Cardew
Re Harvey, dec Harrison v Harvey
Re Bush, dec Frohock & Co Ltd v Bush
Re Walsall (Hill Street) Compulsory Purchase Order 1925 and re Housing Act 1936
Re Mayne, dec Cottrell v Campbell
Re Husband, dec Bradburne v Bradburne
Re Macdonald, dec Roake v Macdonald
Re Fitzgerald, dec Geidt v Mills
Re Bate, dec Public Trustee v Bate
Re Wilson, dec Prideaux v Lea-Wilson
Re Wilson, dec Barclays Bank Ltd v Harvey
Re Agar, dec Sheppard v Avery
Re Branch, dec Public Trustee v Hirst
Re Marsland, dec Lloyds Bank Ltd v Marsland

Mr. Justice CROSSMAN and Mr. Justice MORTON.

Witness List. Part II.

Before Mr. Justice CROSSMAN.

Retained Matter.

Witness List. Part I.

Orient Permanent Building Society v Slater (restored, pt hd)

Assigned Matters.

Re Guardianship of Infants Acts, 1886–1925 Palmer v Palmer (pt hd, s.o. to Oct 21)
Re Guardianship of Infants Acts, 1886–1925 Kirk v Kirk

At the beginning of the Sittings, Mr. Justice CROSSMAN will take the following.

Assigned Matter.

Re Guardianship of Infants Acts, 1886–1925 Tucker v Tucker (pt hd)

Retained Matter.

Procedure Summons.

Lewis v Lewis (pt hd)

Witness List. Part II.

Re Highbury Furnishing Co Ltd Re The Companies Act, 1929
Astbury v Wilshere
Gardner v O'Connor
Swindon Cinemas Ltd v B & J Theatres Ltd
Abbott v Abbott
Lewis v Garbutt

Before Mr. Justice MORTON.

Retained Matter.

Non-Witness List.

Re Harding's Vesting Deed Prideaux-Brune v Prideaux-Brune (pt hd, s.o. to Nov 14)

At the beginning of the Sittings, Mr. Justice MORTON will take the following:—

Witness List. Part II.

Lawrance v Clayden
Lang Wheels Manufacturing Ltd v Wilson
Bates v Provincial Road Houses Ltd
Tothill Estates Ltd v Abbey House Ltd
Quincey v Pelham
General Railway Signal Co Ltd v Westinghouse Brake & Signal Co Ltd (restored, fixed Oct 26)
Buswell v Whiteley Electrical Radio Co Ltd

Mr. Justice CROSSMAN and Mr. Justice MORTON.

Witness List. Part II.

Madlener v Herbert Wagg & Co Ltd (s.o. for security)
Fox v Duboff (s.o. for amendment)
Radium Utilities Ltd v Humphris (s.o. for security)
Nathan v Walker (s.o. for Attorney-General)
Infields Ltd v P Rosen & Sons
Cline v London Express Newspaper Ltd (not before Nov 30)
Re Nier's Letters Patent Re Patent & Designs Acts, 1907–1932
Re Same
Mannock v Smith
Edler v Fuchs
Armour v City of Liverpool
Phillips v Streets Dairies Ltd (restored)
M Bywater & Co Ltd v Wimbush
Freeman v Davey
Evans v Stephens
Hyman v Unerman
Robertson v Robertson
W H Everett & Son Ltd v Hope Agar & Co (a firm)
Newcastle Hotels Ltd v Turner
Re Eric Woodhouse (a Solicitor) Re Taxation of costs
John Jaques & Son Ltd v "Chess" (a firm)
Re Williams, dec Spencer v Williams
General Financial & Investment Trust v Burnelli Aircraft Ltd (not before Oct 31)
Tomley v Shreeve
Avery v Wright
Bayliss v Wright
Eldon v Dent
Barclays Bank Ltd v Stephens Wright & Scown (a firm)
Orr v Odeon Cinema Holdings Ltd
Goodison v F W Woolworth & Co Ltd
Crane v Hegeman-Harris Co Inc
Lamb v Municipal Borough of Epsom and Ewell
Johnson v Carter

KING'S BENCH DIVISION.

MICHAELMAS SITTINGS, 1938.

NOTICE.

The Solicitors for each party are requested to inform the Chief Clerk of the Crown Office, in writing, as soon as possible, as to the probable length of each case and the names of Counsel engaged therein.

CROWN PAPER.—For Argument.

County Council of York (East Riding) v Kingston-upon-Hull City Council
The King v Council of the Administrative County of Essex
Nokes v Doncaster Amalgamated Collieries Ltd
Tyas v Same
Donoghue v Same
Sinclair v Johnson
James and Daniel Provan Ltd v The Council of the County Borough of Croydon
Brighty v Pearson
The King v H T Phoenix, Esq and ors J J's for Guilteross and Shropham
Cole v Young
West Riding Cleaning Co Ltd v Jowett
Melhuish v Morris
Bowen v Norman
Peoples Hostels Ltd v Turley
The King v H R Darlington, Esq and ors J J's for Hertfordshire (exparte Rochford)
Turner v Malton Farmer's Manure & Trading Co Ltd
Hargan v Newmarket Co-operative Society Ltd
The King v Licensing Justices for the City of Bradford (exparte Illingworth and ors)
Batty v Lee
Jarvis v Assessment Committee of the Cambridgeshire Rural Assessment Area and anr
Dawson v Same
The King v Assessment Committee for the West Derby Assessment Area and anr (exparte Mersey Docks and Harbour Board)
The King v Same
Dalton v Adelphi Club Ltd and ors
Walters v Wright and anr
The King v Williamson (exparte Morrison)
MacLeod v Bowler
Same v J J Lane Ltd
The King v Licensing J J's for Weston-super-Mare (exparte Powell)
Cranfield v Lawrence
The King v B Watson, Esq (ex parte Cooper)
The King v Licensing J J's for Weston-super-Mare (exparte Woodman)
Lonsdale v Ball
Soper v Wakley & Sons Ltd
Baxfield v Berkshire Waste Paper Co Ltd
Executors of Joynson v Council and Corporation of City of Liverpool
Smith v Seaward
Sidery v Evans
Dark v Western Motor & Carriage Co (Bristol) Ltd
Homolka v Osmond

L C C v Lees
L C C v Jafrate
Wells v Ladds
Ingram v Hughes
Marshall v Matthews
Finch v Rudd
Jones v Meatyard
Durnell v Scott

CIVIL PAPER—For Hearing.

Israel v Koskas and anr
Stavrou and anr v Koskas and anr
Same v Same
Urban District Council of Wirral v County Borough Council of Wallasey and ors
Mayor &c of Birkenhead v Same and ors
Universal Electric Time & Telephone Systems Ltd v Tischendorf
H Lister & Son Ltd v Parkin
Williams v Watson
Parker v Western Australian Insurance Co Ltd
Theatrical Painting Rooms & Storage Ltd v Birmingham & Coates Ltd
Wood v Wood
Milk Marketing Board v Humphries
Same v Same

SPECIAL PAPER.

Swift Steamship Co Ltd v Board of Trade
Metropolitan Electric Supply Co Ltd v County Valuation Committee for the County of Buckingham
Same v Surrey (North Western) Area Assessment Committee
A L Sturge & Co and ors v Excess Insurance Co Ltd and ors
Court Line Ltd v Canadian Transport Co Ltd
Reardon Smith Line Ltd v East Asiatic Co Ltd
McCarter v Taylor
Hassett v Legal & General Assurance Society Ltd
Farrell v Hare
Messers Ltd v Morrison Export Co Ltd
A Coren & Co Ltd v Cooper Findlay & Co (London) Ltd
Mayer & Sherratt v Co-operative Insurance Society Ltd
Sir R Ropner & Co Ltd v Bunge North American Grain Corporation

APPEALS UNDER THE HOUSING ACTS, 1925 1936.

Adrian Street Compulsory Order, 1935 (Appeal of Watney Combe Reid & Co Ltd)
Nantyglo & Blaina U D C (4 Houses, Palmers Row, Blaina) Confirmation Order, 1936 (Appeal of M A Price)
London County Council (1 to 14, Hinks Place, Poplar) Confirmation Order, 1938 (Appeal of Brixton & District Houses Ltd and Lathom Estates Ltd)
Ripon (Highfield) Housing Confirmation Order, 1938 (Appeal of White and anr)
South Shields (D'Arcy Street) Compulsory Purchase Order, 1937 (Appeal of Bainbridge)

REVENUE PAPER—Cases Stated.

Richard Hodgson Read and The Commissioners of Inland Revenue
Augustus J Dutch and The Commissioners of Inland Revenue
William Cooper Hobbs and H G L Hussey (HM Inspector of Taxes)
William H Boase and Commissioners of Inland Revenue
Jonathan Charles Cusden and F Eden (HM Inspector of Taxes) Sydney Howard Cusden and F Eden (HM Inspector of Taxes) Gertrude Maud Cusden and F Eden (HM Inspector of Taxes) (pt hd)
Sir Alan Garrett Anderson and Commissioners of Inland Revenue
Kensington Palace Mansions Limited and F G Tillett (HM Inspector of Taxes)
Racecourse Betting Control Board and J Wild (HM Inspector of Taxes)
Captain Francis C Still, dec (Executrix of) and Commissioners of Inland Revenue
The Briton Ferry Steel Company Limited and J J Barry (HM Inspector of Taxes)
Hugh George Lowry (HM Inspector of Taxes) and Consolidated African Selection Trust Ltd
Union Cold Storage Company Limited and R A Ellerker (HM Inspector of Taxes)
Union Cold Storage Company Limited and George Raud Simpson (HM Inspector of Taxes)
Dalmatia Limited and Commissioners of Inland Revenue The Executors of Sam Wigglesworth, dec and Commissioners of Inland Revenue
The United Steel Companies Limited and M W Cullington (HM Inspector of Taxes)
B G Utting and Company Limited and John Pickering Hughes (HM Inspector of Taxes)

PETITION.

In the Matter of the Finance Act, 1894, s. 10, and In the Matter of Allen Fairhead, dec

Wills and Bequests.

Mr. Philip Baker, solicitor, of Birmingham and Stratford-on-Avon, left estate of the gross value of £24,499, with net personalty nil. He directs his executors to retain certain land in Stratford-on-Avon known as Hathaway Farm "as a pleasure resort for visitors and that the land enjoyed with the same be reserved for sport, recreative and pleasure purposes, to which a charge for admission may be made, and not used for the erection of additional houses or buildings which do not come within the uses of a pleasure resort and so that mankind will benefit by my provision for a stadium, playing fields, pleasure park, and a resort where the cares and strenuousness of modern life will be alleviated."

Mr. Henry Arthur Dudding, solicitor, of Westward, Wigton, Cumberland, left £28,131, with net personalty £25,338.

Mr. Norton Joseph Hughes-Hallett, O.B.E., D.L., solicitor, of Cheltenham, left £51,142, with net personalty £50,665.

Mr. John Andrew Maxwell, retired solicitor, of Harpenden, Herts, left £56,485, with net personalty £53,695.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June. 1932) 2%. Next London Stock Exchange Settlement, Thursday, 13th October 1938.

	Div. Months.	Middle Price 5 Oct. 1938.	Flat Interest Yield.	‡ Approximate Yield with redemption
			£ s. d.	£ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	107½	3 14 5	3 8 9
Consols 2½%	JAJO	73	3 8 6	—
War Loan 3½% 1952 or after ...	JD	101	3 9 4	3 8 2
Funding 4% Loan 1960-90	MN	109½xd	3 13 1	3 7 8
Funding 3% Loan 1959-69	AO	97½	3 1 6	3 2 6
Funding 2¾% Loan 1952-57	JD	96	2 17 4	3 0 6
Funding 2½% Loan 1956-61	AO	89	2 16 2	3 3 8
Victory 4% Loan Av. life 21 years ...	MS	109	3 13 5	3 7 10
Conversion 5% Loan 1944-64 ...	MN	110½xd	4 10 6	2 14 6
Conversion 3½% Loan 1961 or after	AO	100	3 10 0	3 10 9
Conversion 3% Loan 1948-53 ...	MS	100	3 0 0	3 0 0
Conversion 2½% Loan 1944-49 ...	AO	98	2 11 0	2 14 7
National Defence Loan 3% 1954-58	JJ	100	3 0 0	3 0 0
Local Loans 3% Stock 1912 or after	JAJO	86	3 9 9	—
Bank Stock	AO	332½xd	3 12 1	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	81	3 7 11	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	90	3 6 8	—
India 4½% 1950-55	MN	112	4 0 4	3 5 6
India 3½% 1931 or after	JAJO	92½	3 15 8	—
India 3% 1948 or after	JAJO	81	3 14 1	—
Sudan 4½% 1939-73 Av. life 27 years	FA	105½	4 5 4	4 3 1
Sudan 4% 1974 Red. in part after 1950	MN	105½	3 15 10	3 8 8
Tanganyika 4% Guaranteed 1951-71	FA	107½	3 14 5	3 4 9
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	104	4 6 6	3 1 8
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	91½	2 14 8	3 3 1
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	100½	3 19 7	3 19 2
Australia (Commonw'th) 3% 1955-58	AO	85½	3 10 2	4 1 6
*Canada 4% 1953-58	MS	106½	3 15 1	3 8 9
*Natal 3% 1929-49	JJ	98½	3 0 11	3 3 9
New South Wales 3½% 1930-50 ...	JJ	94½	3 14 1	4 1 9
New Zealand 3% 1945	AO	94	3 3 10	4 1 6
Nigeria 4% 1963	AO	103½	3 17 4	3 15 7
Queensland 3½% 1950-70	JJ	92½	3 15 8	3 18 4
*South Africa 3½% 1953-73	JD	101½	3 9 0	3 7 6
Victoria 3½% 1929-49	AO	93	3 15 3	4 6 2
CORPORATION STOCKS				
Birmingham 3% 1947 or after ...	JJ	82½	3 12 9	—
Croydon 3% 1940-60	AO	94½	3 3 6	3 7 4
*Essex County 3½% 1952-72 ...	JD	101½	3 9 0	3 7 3
Leeds 3% 1927 or after	JJ	82½	3 12 9	—
Liverpool 3½% Redeemable by agreement with holders or by purchase...	JAJO	98½	3 11 1	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	72½	3 9 0	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	82½	3 12 9	—
Manchester 3% 1941 or after ...	FA	77½	3 17 5	—
Metropolitan Consd. 2½% 1920-49 ...	MJSD	96½	2 11 10	2 17 6
Metropolitan Water Board 3% "A" 1963-2003	AO	87½	3 8 7	3 9 10
Do. do. 3% "B" 1934-2003 ...	MS	88½	3 7 10	3 8 11
Do. do. 3% "E" 1953-73 ...	JJ	94½	3 3 6	3 5 3
*Middlesex County Council 4% 1952-72	MN	103xd	3 17 8	3 14 4
* Do. do. 4½% 1950-70	MN	109xd	4 2 7	3 11 4
Nottingham 3% Irredeemable ...	MN	77½xd	3 17 5	—
Sheffield Corp. 3½% 1968	JJ	100	3 10 0	3 10 0
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture ...	JJ	102½	3 18 1	—
Gt. Western Rly. 4½% Debenture ...	JJ	109½	4 2 2	—
Gt. Western Rly. 5% Debenture ...	JJ	121½	4 2 4	—
Gt. Western Rly. 5% Rent Charge ...	FA	118½	4 4 5	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	109½	4 11 4	—
Gt. Western Rly. 5% Preference ...	MA	93½	5 6 11	—
Southern Rly. 4% Debenture ...	JJ	103	3 17 8	—
Southern Rly. 4% Red. Deb 1962-67	JJ	104½	3 16 7	3 14 3
Southern Rly. 5% Guaranteed ...	MA	110½	4 10 6	—
Southern Rly. 5% Preference ...	MA	94½	5 5 10	—

* Not available to Trustees over par.
‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date in the case of other Stocks, as at the latest date.

1938

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Stock
8.

Approximate Yield with Redemption
£ s. d.
3 8 9
—
3 8 2
3 7 8
3 2 6
3 0 6
3 3 8
3 7 10
2 14 6
3 10 9
3 0 0
2 14 7
3 0 0
—
—
—
—
3 5 6
—
—
4 3 1
3 8 8
3 4 9
3 1 8
3 3 1
3 19 2
4 1 6
3 8 9
3 3 9
4 1 9
4 1 6
3 15 7
3 18 4
3 7 6
4 6 2
—
3 7 4
3 7 3
—
—
—
—
—
2 17 6
3 9 10
3 8 11
3 5 3
3 14 4
3 11 4
—
3 10 0
—
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3 14 3
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